### ATTACHMENT 2

		·
		•



## ENVIRONMENTAL MONITORING AND TECHNOLOGIES, INC.

8100 North Austin Avenue Morton Grove, Illinois 60053-3203 847-967-6666 FAX: 847-967-6735

## LABORATORY REPORT

168296

Clark Refining & Marketing, Inc. 131st & Kedzie Avenue Blue Island, IL 60406

> Report Date: 8/14/97 Sample Received: 7/29/97

Sample Description: T-29-B1

Sample No.: 18113

Compound Purgeables	Concentr Found Sample	In <u>Blank</u>	Reporting Limitug/L (ppb)	Quantitation Limit ug/L (ppb)
Chloromethane Bromomethane	(ppb) <1.0 <0.7	( <b>ppb)</b> <1.0 <0.7	1.0 0.7	10 10
Vinyl chloride	<0.5	<0.5	0.5	5
Chloroethane	<0.7	<0.7	0.7	10
Dichloromethane	<0.8	<0.8	0.8	5
Acrolein	<15.0	<15.0	15.0	50
Acrylonitrile	<5.0	<5.0	5.0	50
Trichlorofluoromethane	<0.5	<0.5	0.5	5
1,1-Dichloroethene	<0.5	<0.5	0.5	5
1,1-Dichloroethane	<0.5	<0.5	0.5	5
trans-1,2-Dichloroethene	<0.5	<0.5	0.5	5
Chloroform	<0.5	<0.5	0.5	5
1,2-Dichloroethane	<1.6	<1.6	1.6	5
1,1,1-Trichloroethane	<0.5	<0.5	0.5	5
Carbon tetrachloride	<0.6	<0.6	0.6	<b>5</b>
Bromodichloromethane	<0.6	<0.6	0.6	5
1,2-Dichloropropane	<0.5	<0.5	0.5	5
cis-1,3-Dichloropropene	<0.5	<0.5	0.5	5
Trichloroethene	<0.5	<0.5	0.5	5
Benzene	<0.5	<0.5	0.5	5
Dibromochloromethane	<0.5	<0.5	0.5	5
Trans-1,3-Dichloropropene	<0.9	<0.9	0.9	5

0897-03439

LABORATORY DIRECTOR

Lul E. John



## ENVIRONMENTAL MONITORING AND TECHNOLOGIES, INC.

8100 North Austin Avenue Morton Grove, Illinois 60053-3203 847-967-6666 FAX: 847-967-6735

### LABORATORY REPORT

168296

Clark Refining & Marketing, Inc. 131st & Kedzie Avenue Blue Island, IL 60406

> Report Date: 8/14/97 Sample Received: 7/29/97

Sample Description: T-29-B1

Sample No.: 18113

Compound	Concentr Found		Reporting Limit	Quantitation Limit
<u>Purgeables</u>	Sample (ppb)	Blank	ug/L (ppb)	ug/L (ppb)
23. 1,1,2-Trichloroethane	(PPO) <0.5	(ppb) <0.5	0.5	5
24. 2-Chloroethyl vinyl ether	<2.0	<2.0	2.0	5
25. Bromoform	<4.0	<4.0	4.0	5
26. Tetrachloroethene	<0.5	<0.5	0.5	5
27. 1,1,2,2-Tetrachloroethane	<3.9	<3.9	3.9	5
28. Toluene	<0.5	<0.5	0.5	5
29. Chlorobenzene	<0.5	<0.5	0.5	5
30. Ethylbenzene	<0.5	<0.5	0.5	5

0897-03440

All results expressed as ppb unless otherwise indicated.

Analyses performed using EPA approved Method No. 624 in accordance with 40 CFR 136.

The contents of this report apply to the sample analyzed. No duplication of this report is allowed except its entirety.

LABORATORY DIRECTOR

			st.	*
			•	
,				
			•	

0310240	1003	- ( ) . \ \ .					
IEPA ID 7		County		•			
Clarite ( Site Name	1. 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	_		<b>_</b>			
TUDOOSI	09812	Complaint #:	: c <u>94 - 15</u>	<u>5</u> N			
USEPA ID =	1 - 10:1						
FUS	1/5/64	Ву: <u>С. З.</u>	. By Pho	ne: In Pe	erson:	By Mail: <u>X</u>	
Date Recvo	11101777	T 12 1 15		spondent: <u>Cla</u>	ark Cil	- Ron Sma	ok
	and the second s	Tom Boson Usi		Address: <u>131</u>			
Addres	s:					od, IL 6	
	CODEC 108	565-6165		elephone: <u>708</u>		· ·	
	e: Jon Bosse	11 - harris		етернена ( <u>т. т. т.</u>			
Directions	to Source:						
		0			P. Haye	, Gee	
		Contomha	con _ con	10 000	17/11/11/11	RECEIVE	<u>(15</u>
3 attock	cy.						
\.						MAP 0 7 19	34
				TOU STUDINGS		IEPA-DD	DC.
<del></del>			and the second s	ION FINDINGS	Reich		y
Date Inver	st: <u>2-28-94</u>	Time From:	<u> 2:36</u> To	: 3:13	Inspector		Photos
		1. <1. N	1 1		•	verensi	-
Interview	ed: <u>Kon 3r</u>	rook, Staffe	no youque	ting are		To exid	and
	Jocked	elage. a	00 1/10		1 016	andro	of t
	oil spi	lage. a	li Five	nates to	a + mc = t	L susten	7
dia	ined to	- facilit	1 waste	Male 1 70	20 1000	- 27 <del>- 7</del> - 7 - 7 - 7 - 7 - 7 - 7 - 7 - 7 - 7	<u>/ 83</u>
v		<u> </u>	, 11	· · · · · · · · · · · · · · · · · · ·	01-10	1 od d. 0	direns-
· works	us worke	7		no Com	1 .	of catille	77
Con	ed be	die to		o vapor	m. Til	1 100	to d
Cony	inned_	by medi	est o	10 sps	meters	La Para	£ 675
Sorr	4 VOAS	· (low	levels.	1 pul	Jacobs	prove y C	<u>, , , , , , , , , , , , , , , , , , , </u>
pro	Sing A	e area	who	weather	" Cey	as a v	
	Juma	ediate o	vicance	1/2	1-01	a contract	
acco	raing to	ME1. =	Snook.	174 4	wee s	M	
	Copy of	test	axully_	when a	vailaby	0	
	dations	ited.	lance		<u> collect</u>	- Aport	
	ttached)				····		<u></u>
						<u>.                                    </u>	
				RECEIVE	)	L. Camaribau.	Yo A
Complain	ent Notified o	of Findings? Ye	s: <u>X</u> No:_			to Computer:	
	hern Region f			APR 0 7 1994		A SA	
Co	mplaint 1	File		(EFA-DLP)			
	<u> </u>				7.18.5	7	

Three Environments Protector Agency Division of Land Polision Condoi	RCRAINSPECTION-REPORT
4 4 1 0 0 0 5 1 0 9 8 2 2	1EPA 0: 0 3 1 0 3 4 0 0 0 5
Maria: Clark CA & Refining	The state of the s
Address: 13100 S. Kedzie Ave.	Courty: Cook
Blue Island	State: IL   Zio: 60406
: Mayword Inspection Date: 2/88	A CONTRACTOR OF THE PROPERTY O
or 25° over cont	SEASON SEASON OF THE SEASON OF T
TYPE OF PACE	angunggi garagan angunggi gang gang gang gang gang gang gang
3 Aug : C T S D	Regumed As: G- (T/ (5) (0)
LOF? N HEW? N   90-Day F/U Required	A STATE OF THE PARTY OF THE PAR
TYPE OF IKSP	and the same of th
Semplery Crizen Complete	
	Us to trapection of: Withorner_A.
Cleaned Normander:	Other (Specify in Nametree):
PASTA	States programment and programment and programment of the control
	Maliyor (subsequent) Notification.
The second secon	ATTERIOLE
A VIII TO TO TO THE PROPERTY OF THE PROPERTY O	Approved by (US)(IL) EPA://
P. TO 10 TO	
The article and the second control of the se	APPERATION FIRE PRINT BUSC:
Permi Submidde V of N 5/E/88	TO STATE OF THE PROPERTY OF TH
Anomey Generals Y or N	by Substantian Y or N//
ORDERS IS	N/A
CC:/	Consert Decree:
B Coun Order:// State Coun Order:	IPC8 Order:
TSD FACILITY ACT	TATTY SUBSELET
STATE OF THE STATE	
TIVITY CY DESC COCC  THE STATE OF THE STATE	35 V.C. Sec. 19 119 119
MANUACA COOR STATE OF	25 V.C. Sec. 19 119 119
101 Y. Junkwan y 1 X	IN N/A N/A
CX N/A	I N/A + 1
	N/A L
January (1) (1) State of the Workship of State of the Sta	W/A +++
· C. · · · · · · · · · · · · · · · · · ·	N/B
	RECEILED

EPA-DIP

0310240005/Cook County Clark Oil & Refining ILD005109822

#### NARRATIVE

On April 13, 1994, I conducted an inspection at the above referenced facility in response to a citizen's complaint that a red "tank truck" had emptied its contents on the ground on or near Clark Oil property in Blue Island.

Upon arrival at the site, I met and interviewed the complainant, who lead me to the area where the alleged dumping had occurred. During the inspection, I observed several areas which contained a black tarry material, and an area approximately 6ft by 15ft which contained a black charcoal like material. I then went to the Clark Oil Refinery where I met Mr. Ron Snook, the Environmental Manger for Clark Oil. Mr Snook then accompanied me back to the area where the alleged dumping occurred. Mr. Snook stated that this was an area that Clark uses for the accumulation of wastes such as material form the repair of roads on Clark Oil property and the waste non-hazardous catalyst from the cleaning of some of its process tanks. This catalytic material consists of sand, clay, sulfur and oil. Mr. Snook stated that a red vacuum truck sucks this material from the process tanks and brings the material to this area and empties it on the ground. When enough of it is accumulated to make an economical shipment, a front end loader scoops up the material and places it in a roll off box for transport to the disposal facility. We then went back to Mr. Snook's office where he gave me copies of manifests for the waste catalyst. It is shipped off-site as special waste for disposal at CID landfill. The last manifested shipment was dated 12/02/93.

#### APPARENT VIOLATIONS

LINE 1 Causing or allowing litter 21(p)(1) of the Act.

LINE 11 Causing or allowing the development and/or operation of a solid waste management site without an Agency Permit 807.201 and 807.202 of the Regulation

0310240005/Cook County Clark Oil & Refining ILD005109822

- LINE 12 Causing or allowing the open dumping of any waste 21(a) of the Act
- LINE 13 Conducting a waste-disposal, waste-treatment, or waste-storage operation without an agency permit.

	:		* * * *	* * *	
					A
					•
		•			
		:			
		•			
•	•				
			4.4		
			•		
en e		the state of the s	man and a second	and the angle of the state of the angle of the state of t	en an en

031024000 / Cook County Clark Oil & Refinery June 6, 1994

#### NARRATIVE

On June 6, 1994, a follow-up inspection was conducted at the above referenced facility to determine if the violations cited during the April 13, 1994 inspection had been resolved and to find out Clark's reason for refusing to accept the PECL dated May 20, 1994.

Upon arrival at the facility, I met and interviewed Mr. Robert Llanes, of Clark's environmental staff. During the interview Mr. Llanes stated that the clean up of the catalyst had been accomplished by scraping up the first few inches of soil and placing it in a roll off box until the soil analysis results were done. When the results came back the soil was taken to CID landfill for disposal. Llanes stated that PECL was inadvertly refused due to a mix-up. The front gate guards who are responsible for accepting the mail thought that the certified letter had postage due on it and so they refused to accept it. The front gate personnel have now been given strict instructions not to refuse any mail that comes.

During the inspection, I observed that all of the material that had been dumped was removed. Llanes provided copies of the manifest and waste analysis (see attachments).

#### APPARENT VIOLATIONS

At the time of inspection, no apparent violations were observed and the facility may be returned to compliance.

RECEIVED
JUL 1 4 1994
IEPA-DLPC

JUL 35 1997

DRE-8J

## CERTIFIED MAIL RETURN RECEIPT REQUESTED

Clark Refining and Marketing, Inc. 131st and Kedzie Avenue Blue Island, Illinois 60406

> Re: Section 3007 Information Request Clark Refining and Marketing, Inc. Blue Island, Illinois EPA ID No.: ILD 005 109 822

#### Dear Sir or Madam:

This is a request for information by the United States Environmental Protection Agency (U.S. EPA) pursuant to its authority under Section 3007 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. §6927. The information requested relates to your company's management of solid and/or hazardous waste, including, but not limited to water draws (gasoline contaminated with water) received from Martin Oil Service in Blue Island, Illinois.

The information requested herein must be provided to this office within twenty-one (21) calendar days of receipt of this letter notwithstanding its possible characterization as confidential information. You may, pursuant to 40 CFR 2.203(a), assert a business confidentiality claim covering all or part of the information in the manner described in 40 CFR 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B. Any requests for confidentiality must be made when the information is submitted, since any information not so identified may be made available to the public without further notice.

The written statements submitted pursuant to this request must be notarized and submitted under an authorized signature certifying that all statements contained therein are true and accurate to

the best of the signatory's knowledge and belief. Any documents submitted to U.S. EPA Region 5 pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge or belief.

Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, misleading, or incomplete, the signatory should so notify Region 5. If any answer certified as true should be found to be untrue or misleading, the signatory can and may be prosecuted pursuant to 18 U.S.C. §1001. U.S. EPA has the authority to use the information requested herein in an administrative, civil, or criminal action.

If you have any questions regarding this matter, please contact Allen T. Wojtas, Enforcement and Compliance Assurance Branch, at (312) 886-6194. Your response should be sent to U.S. EPA, Region 5, Enforcement and Compliance Assurance Branch (DRE-8J), 77 West Jackson Boulevard, Chicago, Illinois 60604, Attention: Allen T. Wojtas.

Sincerely yours,

Lorna M. Jereza, Chief Illinois/Indiana Section Enforcement and Compliance Assurance Branch

Enclosure

cc: William Child, IEPA

bcc: Branch File
 Section File

DRE-8J/AW:be/7-25-97/6-6194/filename:a:clark.307

	·					
					·	

bcc: Branch File Section File

DRE-8J/AW:be/7-25-97/6-6194/filename:a:clark.307

#### ENFORCEMENT AND COMPLIANCE ASSURANCE BRANCH

SECRETAR Y	SECRETARY	SECRETARY	SECRETARY	SECRETARY	SECRETAR Y
18 1 /25/91					
AUTHOR/ TYPIST	MINN/OHIO SECTION CHIEF	MICHIGAN/ WISCONSIN SECTION CHIEF	ILLINOIS/ INDIANA SECTION CHIEF	ECAB BRANCH CHIEF	WPTD DIVISION DIRECTOR
My 197	9	ŧ	W 197		9



			*		
		,			
		•			
				•	
	1				
			· ·		

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION V

CLARK MARKETING AND	)	Information Request Pursuant
REFINING, INC.	)	to Section 3007 of the Resource
131ST & KEDZIE AVENUE	)	Conservation and Recovery Act,
BLUE ISLAND, ILLINOIS 60	)406 )	as amended, 42 U.S.C. §6927.
	)	

This is a request by the United States Environmental Protection Agency (U.S. EPA) issued pursuant to Section 3007 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6927. The issuance of this request serves to require Clark Refining and Marketing, Inc. to submit information relating to its management of solid and/or hazardous wastes including, but not limited to water draws (gasoline contaminated with water) received from Martin Oil Service, located in Blue Island, Illinois.

On January 30, 1986, the State of Illinois was granted final authorization by the Administrator of U.S. EPA, pursuant to Sections 3006 of RCRA, 42 U.S.C. \$6926, to administer a hazardous waste program in lieu of the Federal program. See 51 Federal Register 3778 (1986). As a result, facilities in Illinois qualifying for interim status under 40 CFR 270.70 and facilities applying for a RCRA permit are regulated under the Illinois provisions found at 35 Illinois Administrative Code (IAC) 720 et seq. rather than the Federal regulations set forth at 40 CFR 260 et seq.

#### I. INSTRUCTIONS

This request for information pertains to specific information you may have regarding the management of solid and/or hazardous waste at your facility located at 131st and Kedzie Avenue, Blue Island, Illinois 60406.

If any information called for herein is not available or accessible in the full detail requested, the request shall be deemed to call for the best information available. The request also requires the production of all information called for in as detailed a manner as possible based upon such information as is available or accessible.

The information must be provided notwithstanding its possible characterization as confidential information or trade secrets. You are entitled to assert a claim of confidentiality pursuant to 40 CFR 2.203(b) for any information produced that, if disclosed to persons other than officers, employees, or duly authorized representatives of the United States, would divulge information entitled to protection as trade secrets. Any information which the Administrator of this Agency determines to constitute methods, processes or other business information entitled to protection as trade secrets will be maintained as confidential pursuant to the procedures set forth in 40 CFR Part 2. A request for confidential treatment must be made when information is provided since any information not so identified will not be accorded this protection by the Agency.

•					
			·		

The written statements submitted pursuant to this request must be notarized and returned under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory's knowledge and belief. Should the signatory find at any time after submittal of the requested information that any portion of this submittal certified as true is false or misleading, the signatory should so notify U.S. EPA. If any information submitted under this information request is found to be untrue or misleading, the signatory can be prosecuted under Section 101 of Title 18 of the United States Code. U.S. EPA has the authority to use the information requested herein in an administrative, civil, or criminal action.

The information requested herein must be provided, within twentyone (21) calendar days following receipt of this request, to the
United States Environmental Protection Agency, Region 5,
Attention: Allen T. Wojtas, Enforcement and Compliance Assurance
Branch (DRE-8J), 77 West Jackson Boulevard, Chicago, Illinois
60604.

#### II. DEFINITIONS

1. "Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal

·

operational units (e.g. one or more landfills, surface impoundments or combinations of them) (35 IAC 720.110).

- 2. "Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102 (35 IAC 720.110).
- 3. "Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103 (35 IAC 720.110).
- 4. "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation (35 IAC 720.110).
- 5. "Transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. (35 IAC 721.110).
- 6. "Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste or so as to render such waste nonhazardous or less hazardous; safer to transport, store or dispose of; or amenable for storage or reduced in volume (35 IAC 720.110).

- 7. "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated disposed of or stored elsewhere. (35 IAC 720.110).
- 8. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater (35 IAC 720.110).
- 9. "Manifest" means the shipping document originated and signed by the generator which contains them information contained by 35 Ill. Adm. Code 722 Subpart B (35 IAC 720.110).

# III. REQUEST FOR ANSWERS TO QUESTIONS AND THE PRODUCTION OF DOCUMENTS

- 1) According to an operator's logbook and discussions with Clark personnel during the NEIC inspection, the contents of Clark's desalter were emptied into the Tank 29 dike on at least one occasion. Set forth each occasion on which the contents of the desalter were emptied into the Tank 29 dike and the amount.
  - a) What is the construction of the area inside of the dike?
  - b) Is the area inside of the dike lined?
  - c) Was the dike lined when Clark emptied the desalter into the dike?
  - d) Were any notifications made to regulatory agencies regarding the placement of the desalter contents into the dike?
  - e) Would the desalter contents be expected to exhibit any hazardous waste characteristics?

			·,
			·
			·
	·		

- f) When the desalter was emptied in the tank 29 dike, was a hazardous waste determination made?
- g) Were any samples collected or analyses run? If so, provide documentation of any hazardous waste determinations, sampling, and analysis performed before placing the material in the dike.
- h) Was the material ultimately removed from the diked area? Provide any available documentation describing waste determinations and management of the material.
- I) Provide all documentation related to your answer to these questions.
- 2) Clark has indicated that the spent caustic placed in Tanks 28 and 29 are not hazardous waste because the material is shipped to International Paper, Merichem, and GATX Terminal as a product.
  - a) Provide any documentation relating to shipments of spent caustic from Tanks 28 and 29 as a product since January 1993, including, but not limited to contracts, bills of sale, invoices, shipping documents, and other similar documents.
  - b) Provide any MSDSs or other documentation corresponding to shipments of spent caustic since January 1993.
  - c) Provide any available sampling and analytical information corresponding to the spent caustic.
  - d) Residues were observed beneath the valves and inside the dikes of Tanks 28 and 29 at the refinery. What are the residues? Is the residue removed periodically? If so, how is the material managed? If the material is disposed, provide any sampling, analytical, and shipping documentation.
  - e) Based on analytical results from samples collected to determine compliance with the Clean Air Act requirement, the spent caustic contains benzene. Does the spent caustic have to be processed to remove benzene and oil prior to its use as an ingredient in another industrial process? If so, who processes the spent caustic, and what is the disposition of the materials removed from the spent caustic?
  - f) Provide all documentation related to your answer to this question.
- Clark representatives told the NEIC inspectors that material from cleanout of the 59 sump is combined with other materials, such as materials from the overflow pit, and shipped off site for disposal using a manifest. The waste codes assigned to the shipment typically include D018, K049, K050, K051, F037, and F038.

			·

- a) When the 59 sump is cleaned out, and before the material is combined with other materials, how is the waste from the sump managed?
- b) Is the material from the sump a listed waste, and does the material exhibit hazardous waste characteristics?
- c) Provide any sampling and analytical information related to the material from the sump.
- d) Provide all documentation related to your answer to these questions.
- 4) Black material was observed by NEIC around 59 sump, and on the ground inside the dike around Tanks 51 and 59, especially on the southern portion of the diked area (north of the warehouse, but inside of the tank dike).
  - a) What are the sources of the contamination inside the dike of Tanks 51 and 59, and around the 59 sump?
  - b) Has material been excavated from these areas in the past? List the date of each occasion the material has been excavated, the results of any hazardous waste determination made on the materials, including any analytical information, and the disposition of the material.
  - c) Provide all documentation related to your answer to these questions.
- 5) Sheens have been observed by NEIC inspectors on water beneath the inlet pipe to tank dike 55 from Outfall 1B, and black stains were observed around the inside of the dike.
  - a) Have samples been collected of the liquid in the dike? If so, provide copies of any analytical information available.
  - b) Has Clark removed sludge, solids or any material(s) from the dike of Tank 55? Was a waste determination made on the material(s)? What was the disposition of the material(s)?
  - c) Provide all documentation related to your answer to these questions.
- Provide a written explanation of how the material inside of the red rolloff box, observed by NEIC during the March 1997 site visits, was generated. Include the history of the contents of Tank 78. The rolloff was located north of the overflow pit inside of the dike of Tank 52. When the rolloff was first observed by NEIC it was not marked. A hazardous waste label was added by Clark, with the waste number D008. "Tank 78" was also marked on the label, and a date of "2/3/97." Elva Carusiello indicated that the final hazardous waste determination had not been done on the

		:

material, and that the information on the label was based on discussions with refinery personnel. What was the final determination of the regulatory status of the material, and what was the final disposition of the waste? Provide all documentation related to your answer to this question.

- 7) A September 18, 1995 revision of the RCRA contingency plan was provided to NEIC during the week of March 3, 1997. During the week of March 17, 1997, Clark provided a March 20, 1997 transmittal letter, indicating that a contingency plan was distributed to local emergency services.
  - a) Which version of the contingency plan was transmitted with the letter?
  - b) Clark personnel indicated that the revised contingency plan may have been distributed during meetings prior to March 20, 1997. If so, which version of the plan was distributed, and what meetings was Clark referring to?
  - c) When was the last date, prior to March 20, 1997, that a contingency plan was provided to local emergency services, including the on-site emergency services?
  - d) Provide all documentation related to your answers to these questions.
- B) During the NEIC inspection on March 19, 1997, Bill Irwin indicated he had attended training provided by U.S. EPA Region 5, and that Clark had not made further efforts to comply with the RCRA air emissions (Subpart CC) requirements, and no documentation was available regarding efforts to comply.
  - a) Provide the location and the date of the training session attended by Bill Irwin.
  - b) Provide any other information regarding Clark's efforts to determine which wastes are subject to the RCRA air emissions requirements (Subparts BB and CC), and dates the determinations were made.
- 9) According to Clark's June 27, 1997 response to the May 29, 1997 Clean Air Act information request, Clark has received wastewater shipments from off-site facilities on the following dates: May 24, 1995, October 5, 1995, March 7, 1996, March 11, 1996, and April 3, 1997.
  - a) Who discovered the water in the tank(s) owned or operated by Martin Oil, and on what date? Indicate the location, designation (number or name), and capacity of each affected tank. Were any samples collected of the contents of the tank(s)? If so, who collected the sample(s) how many were collected, what were the results of the analysis?



- b) Who at Martin had conversations with Clark employees regarding the water in the tanks and the transportation of the water/gasoline? Are there any conversation records? Who contacted the vacuum truck and/or other transportation company or companies?
- c) Provide a description of the transportation route, and copies of any manifests, bills of lading, weigh tickets, or other documentation associated with the vacuum truck shipments or other transportation of water/gasoline from the Martin Oil facility to Clark.
- d) After the scheduled vacuum truck shipments of water/gasoline were canceled on or about April 3, 1997, what was done with the water/gasoline remaining in the tank(s)? Provide any documentation of the management of the material.
- e) Provide all documentation related to your answers to these questions.
- 10) With respect to all wastes generated by Clark at its Blue Island, Illinois facility, other than office waste, provide the following information:
  - a) a description of the waste stream;
  - b) the testing or monitoring of the waste stream, if any, conducted by Clark or on behalf of Clark by one of its contractors;
  - c) the waste determinations made by Clark with respect to such waste stream; and
  - d) how each waste stream is managed.

Provide copies of all documentation related to your answer to this question, including, for the period of January 1, 1993 to the present, copies of all analyses and sampling results for such waste.

11) Provide the following notarized certification by a responsible company officer:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in responding to this information request for the production of documents. Based on my review of all relevant documents and inquiry of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Issued	this	day of	, 1997.
Toonga	CIITO	uay or	, 100/.

Lorna M. Jereza, Chief
Illinois/Indiana Section
Enforcement and Compliance Assurance Branch
Waste, Pesticides, and Toxics Division
United States Environmental Protection Agency
Region V

			•						
									÷
		4							
						•			
			·						
					· ·				
	•					•			
				•					
				-					
									•
						•			
•									
								•	

Mary A. Gade, Director 217/785-8604 2200 Churchill Road, Springfield, IL 62794-9276

July 19, 1996

Clark Oil & Refining Corporation Attn: Elva Carusiello 13100 South Kedzie Avenue Blue Island, Illinois 60406

Re: 0310240005 -- Cook County Clark Oil & Refining Corporation ILD005109822 Compliance File

Dear Ms. Carusiello:

On June 26, 1996, your facility was inspected by James Haennicke of the Illinois Environmental Protection Agency. The purpose of this follow-up inspection was to determine your facility's compliance status with respect to the apparent violations cited in the August 9, 1995 Compliance Inquiry Letter. During the inspection, it was determined that you have returned to compliance for the apparent violation of Section 21(a) of the [Illinois] Environmental Protection Act.

Please note, although you have returned to compliance for this apparent violation, the Agency reserves the right to pursue further enforcement.

For your information a copy of the inspection report is enclosed. Should you have any questions regarding the inspection, please contact James Haennicke, at 708/338-7900.

Sincerely.

David C. Jansen, Acting Manager

Wavid Clanser

Field Operations Section

Bureau of Land

DCJ:JH:dv7183.wp1

Enclosure

bcc: Division File
Maywood Region
James Haennicke
Deanne Virgin

SCREENED

CLARK

# KESPONSE TO 4/18 9/6 PECI

REFINING & MARKETING, INC.

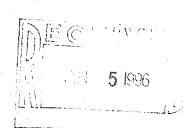
131st and Kedzie Avenuc Blue Island, Illinois 00406

May 30, 1996

Mr. Clifford Gould Regional Manager Division of Land Pollution Illinois Environmental Protection Agency 1701 First Avenue Maywood, ILL 60153

Refer to:

0310240005 -- Cook County
Clark Refining & Marketing, Inc.
(formally known as Clark Oil & Refining, Corp.)
ILD005109822
COMPLIANCE FILE



Dear Mr. Gould:

Clark is in receipt of you letter dated May 24, 1996, received by Clark on May 28, 1996. Your letter stated the results from the May 22, 1996, Pre-Enforcement Conference. Specifically the action Clark agreed to perform in order to achieve compliance with the alleged violation.

Clark anticipates performing the remediation action around tank 51 by June 24, 1996 (weather permitting). When the remediation is scheduled Clark will notify Mr. Haennicke.

Clark would like to thank you and Mr. Haennicke for taking the time to meet with Clark in order to resolve this issue. If you have any questions please, contact me.

Sincerely yours,

CLARK REFINING & MARKETING, INC.

Ronald Snook Environmental Manager Blue Island Refinery

cc: Planning and Reporting Section Division of Land Pollution Control #24 Illinois Environmental Protection Agency 2200 Churchill Road, PO Box 19276 Springfield, IL 62794-9276 File

SCREENED GLARIE

.

Mary A. Gade, Director 217/785-8604 2200 Churchill Road, Springfield, IL 62794-9276

CERTIFIED MAIL 2363764548

April 18, 1996

Clark Oil & Refining Corp. Attn: Ronald Snook 13100 S. Kedzie Blue Island, Illinois 60406

Re: PRE-ENFORCEMENT CONFERENCE LETTER

0310240005 - Cook County Clark Oil & Refining Corp. ILD005109822 Compliance File

Dear Mr. Snook:

Second .

The Agency has previously informed Clark Oil & Refining Corporation of apparent violations of the [Illinois] Environmental Protection Act and/or rules and regulations adopted thereunder. These apparent violations are set forth in Attachment A of this letter.

As a result of these apparent violations, it is our intent to refer this matter to the Agency's legal staff for the preparation of a formal enforcement case. The Agency's legal staff will, in turn, refer this matter to the Office of Attorney General or to the United States Environmental Protection Agency for the filing of a formal complaint.

Prior to taking such action, however, you are requested to attend a Pre-Enforcement Conference to be held at the Illinois Environmental Protection Agency's Maywood Regional Office, 1701 South 1st Avenue, Suite 600, Maywood, Illinois. The purpose of this Conference will be:

- 1. To discuss the validity of the apparent violations noted by Agency staff, and
- 2. To arrive at a program to eliminate existing and/or future violations.

You should, therefore, bring such personnel and records to the conference as will enable a complete discussion of the above items. We have scheduled the Conference for Wednesday, May 15, 1996 at 9:30 a.m. If this arrangement is inconvenient, you may arrange for an alternative date and time.

In addition, please be advised that this letter constitutes the notice required by Section 31(d) of the [Illinois] Environmental Protection Act prior to the filing of a formal complaint. The cited Section of the [Illinois] Environmental Protection Act requires the Agency to inform you of the charges which are to be alleged and offer you the opportunity to meet with appropriate officials within thirty days of this notice date in an effort to resolve such conflict which could lead to the filing of formal action.

Printed on Recycled Paper

 	•		•			
					A Super State	<b>-</b> 42:
				,		N <sub>a</sub>
					•	
		•				
						*
						٠

### Attachment A

Pursuant to Section 21(a) of the [Illinois] Environmental Protection Act(415 ILCS 5/21(a)), no person shall cause or allow the open dumping of any waste. You are in apparent violation of Section 21(a) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(a)), for the following reason: Tank 51 and its associated piping is continually causing contamination to the surrounding area.

GDS:JH:DV:rmi\962654.WPD

		· · · · · · · · · · · · · · · · · · ·	••		
•					
		A.			
				:	

Mary A. Gade, Director

1701 First Avenue, Maywood, IL 60153

RECEIVED

MAY 2 9 1996

IEPA-DLPC

708/338-7900

May 24, 1996

CERTIFIED MAIL #Z 152 753 308

Clark Oil and Refining Corporation Attn: Ronald Snook 13100 South Kedzie

Blue Island, IL 60406

PRE-ENFORCEMENT CONFERENCE FOLLOW-UP LETTER

Refer to: 0310240005 -- Cook County
Clark Oil & Refining Corporation
ILD005109822

COMPLIANCE FILE

Dear Mr. Snook:

On May 22, 1996, a Pre-Enforcement Conference (PEC) was held at the Maywood Regional office. This conference was held pursuant to the apparent violation(s) previously identified by the Agency in the Pre-Enforcement Conference Letter dated April 18, 1996. The purpose of this conference was 1) to discuss the validity of the apparent violation(s) noted by Agency staff, and 2) to arrive at a program to eliminate existing and/or future violation(s).

At the PEC, Clark Oil and Refining Corporation agreed to take the following steps toward achieving compliance with the identified violation(s):

Section 21(a) of the Act -

By June 24, 1996 Clark Oil and Refining Corporation will begin the remediation of contamination around Tank 51. James Haennicke, from the IEPA's Maywood Office, will be contacted at this time to verify the cleanup of this area.

Your written response and one copy of all documents submitted in response to this letter should be sent to:

Planning and Reporting Section Division of Land Pollution Control #24 Illinois Environmental Protection Agency 2200 Churchill Road, P.O. Box 19276 Springfield, Illinois 62794-9276

SCREENED

Clark Oil and Refining Corporation May 24, 1996 Page 2

The IEPA reserves the right to file an enforcement action based on the alleged violations of the Act and/or Regulations that were the subject of the notice forwarded to you and/or your facility, regardless of your current or future compliance with the Act and/or Regulations.

Should you have any questions concerning this letter or need further assistance, contact James Haennicke at 708/338-7900.

Sincerely,

0

Clifford Gould Regional Manager

Division of Land Pollution Control

CG:JH:dfa:Clark

cc: Division File

Maywood Region

Mary A. Gade, Director 217/785-8604 2200 Churchill Road, Springfield, IL 62794-9276

April 1, 1996

Clark Oil & Refining Corporation Attn: Elva Carusiello 13100 South Kedzie Avenue Blue Island, Illinois 60406

Re: 0310240005 -- Cook County Clark Oil & Refining Corporation ILD005109822 Compliance File

Dear Ms. Carusiello:

The Agency is in receipt of your August 24, 1995 and January 3, 1996 responses to the August 9, 1995 Compliance Inquiry Letter. Based upon a review of your responses, the Agency has determined that you have returned to compliance for the apparent violation of Section 722.111.

Please note, although you have returned to compliance for this apparent violation, the Agency reserves the right to pursue further enforcement.

If you have any questions, please contact James Haennicke at 708/338-7900.

Sincerely,

0

Glenn D. Savage, Manager

Field Operations Section

Division of Land Pollution Control

Colum D. Sunger pmp

Bureau of Land

GDS:JH:dv22

bcc: Division File
Maywood Region
James Haennicke
Deanne Virgin

SCREENED

APR - 4 1996

DJH

-	 	· · · · , · · · · · · · · · · · · · · ·	*	
				<i>2</i> *
				•
r				
!				

### CLARK

RESIDUSE TO 819195 CIL

January 3, 1996

James Haennicke
Illinois Environmental Protection Agency
Bureau of Land
1701 South First Avenue
Maywood, Illinois 60153

Re: Clark Refining & Marketing, Inc.

Blue Island Refinery

Follow-Up to Compliance Inspection 6/95

Dear Mr. Haennicke:

As a result of your inspection of the Clark Refining & Marketing, Inc. Blue Island Refinery in June, 1995 a Compliance Inquiry Letter was sent regarding the condition of the north side of the Tank 51 Dike and under the cone tank adjacent to the API separator. These two areas exhibited signs of soil contaminated with petroleum product. As a result, the areas were sampled to classify the waste soils that would be generated when the areas are cleaned and material is disposed.

The analytical data shows that the materials in these areas are not hazardous. These soils will be disposed of as a special waste in a permitted Illinois facility. The analytical data is attached

The north end of the Tank 51 Dike area was to be cleaned in October 1995, however due to a communication error the south side of the dike was cleaned. Attached is a copy of the Manifest for soils removed from the south side of the Tank 51 Dike. During the last week in December 1995 the soils at the south side of Tank 51 Dike were excavated and placed in a roll-off and are still on site awaiting disposal. The Dike remains excavated without backfill should you wish to inspect it.

The area under the cone tank was partially cleaned in December 1995 by Clark's maintenance personnel. Clark has determined the source of contamination. To adequately address the contamination issue a complete process review will be required and piping changes may be required. To best utilize Clark's resources, the process review and modifications will be made prior to completing the clean-up under the cone tank. It is estimated that the process review and process modification design will be complete by February 2, 1996. Once the process review and design are complete, a follow-up letter with a detailed schedule will be forwarded to you.





ENVIRONMENTAL PROTECTION AGENCY
JAN 03 1996

BUREAU OF LAND POLLUTION CONTROL STATE OF ILLINOIS

		e.	Section 1
			ė.
	· .		
:			

If you have any questions, or need further information, please call me at 708-385-5000 X257.

Sincerely yours,

CLARK REFINING & MARKETING, INC.

Elva Carusiello

Assistant Environmental Manager

Elm Causulle

Attachments

cc: Ronald Snook

Robert Martindale

## CLARK RESPONSE TO 8/9/95 CIL

03/0240005--Cook Clark Oil a Refining Corp Completing & MARKETING, INC.

> 131st and Kedzie Avenue Blue Island, Illinois 60406

Certified Mail Z 020 215 782

August 24, 1995

Deanne Virgin
Compliance Unit
Illinois Environmental Protection Agency
Bureau of Land #24
Post Office Box 19276
Springfield, Illinois 62794-9276

Clark Refining & Marketing, Inc.

Blue Island Refinery ILD005109822

Compliance Inquiry Letter Dated 8/9/95

RECEIVED

AUG 29 1995

IEPA/DLPC

Dear Ms. Virgin,

This is in response to the Compliance Inquiry Letter dated August 9, 1995, and received by Clark Refining and Marketing, Inc. on August 11, 1995.

Clark has initiated waste determinations of the contaminated soil located adjacent to Tank 51 and under the sludge tank. Samples were sent out for analysis on August 14, 1995. The Chain of Custody Record is attached. The results are expected within two weeks of sampling.

A more detailed response will be submitted upon receipt of the analytical data.

If you have any questions, or need further information, please call me at 708-385-5000 X257.

Sincerely yours,

CLARK REFINING & MARKETING, INC.

Coussell

Elva Carusiello

Assistant Environmental Manager

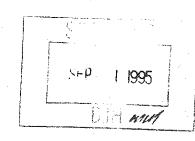
Attachment

cc:

Ron Snook

Brad Burmaster

EC/ec/k:/environVandVepa\cil0895.doc





Gade, Director

2200 Churchill Road, Springfield, IL 62794-9276

217/782-6761

CERTIFIED MAIL

August 9, 1995

Clark Oil & Refining Corporation Attn: Elva Carusiello 13100 South Kedzie Avenue Blue Island, Illinois 60406

Re: COMPLIANCE INOUIRY LETTER
0310240005 -- Cook County
Clark Oil & Refining Corporation
ILD005109822
Compliance File

Dear Ms. Carusiello:

The purpose of this letter is to address the status of the above-referenced facility in relation to the requirements of the [Illinois] Environmental Protection Act and 35 Ill. Adm. Code, Subtitle G and to inquire as to your position with respect to the apparent violations identified in Attachments A and B and your plans to correct these apparent violations. The Agency's findings of apparent non-compliance listed in Attachments A and B are based on an inspection completed on June 23, 1995. For your convenience a copy of the inspection report is enclosed with this letter.

These resolution dates are not to exceed 60 days from the date of the above referenced inspection and/or record review. The written response, and two copies of all documents submitted in reply to this letter, should be sent to the following:

Deanne Virgin
Compliance Unit
Illinois Environmental Protection Agency
Bureau of Land #24
Post Office Box 19276
Springfield, Illinois 62794-9276

Further, take notice that non-compliance with the requirements of the [Illinois] Environmental Protection Act and rules and regulations adopted thereunder may be the subject of enforcement action pursuant to either the [Illinois] Environmental Protection Act, 415 ILCS 5/1 et seq. or the Gederal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sec. 6901 et seq.

AMB 1 6 8965

#### Attachment A

- Pursuant to 35 Ill. Adm. Code 722.111, a person who generates a solid waste as defined in Section 721.102, must determine if that waste is a hazardous waste using the following method:
  - a. He should first determine if the waste is excluded from regulation under Section 721.104.
  - b. He must then determine if the waste is listed as a hazardous waste in Subpart D of Part 721.

Note: Even if a waste is listed, the generator still has an opportunity under Section 720.122 and 40 CFR Section 260.22 to demonstrate that the waste from his particular facility or operation is not a hazardous waste.

- c. If the waste is not listed as a hazardous waste in Subpart D of Part 721, he must determine whether the waste is identified in Subpart C of Part 721 by either:
  - 1. Testing the waste according to the methods set forth in Subpart C of Part 721, or according to an equivalent method approved by the Board under Section 720.121; or
  - 2. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

You are in apparent violation of Section 722.111 for the following reason(s): Waste determinations must be made on the contaminated soil located adjacent to tank 51 and under the sludge tank..

DV:ct,951464

### Attachment B

1. Pursuant to Section 21(a) of the [Illinois] Environmental Protection Act, 415 ILCS 5/1 et seq., no person shall cause or allow the open dumping of any waste. You are in apparent violation of Section 21(a) of the [Illinois] Environmental Protection Act, 415 ILCS 5/1 et seq., for the following reason(s): Soil contamination adjacent to tank 51 and under the sludge tank.

DV:ct,951451





### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5 77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

Glern Savage, Hanager Field Operations Section Division of Land Pollution Control Illinois Environmental Protection Agency 2200 Churchill Road P.O. Box 19276 Springfield. Illinois 62794-9275

HRE-8J

Re: Citizen Complaint

Dear Mr. Savage:

The United States Environmental Protection Agency is referring to your agency a citizen complaint. The complaint is from Mr. Frank Krueger. He alledged in a telephone conversation to our office that industrial waste was being dumped into residential sewers.

Please investigate this matter as soon as possible and pursue the appropriate state enforcement activity. Send a copy of the results of your investigation to Ms. Zetta Mest at our office. If you have any questions, please contact her at (312) 886-4581 or me at (312) 886-4445.

Your cooperation and effort in this matter are appreciated.

Sincerely yours,

leylains E. nemales

Uvlaine E. McMahan, Chief Enforcement Program Section

Enclosure

cc: Clifford Gould, IEPA William Radlinski, IEPA RECEIVED

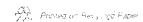
RECEIVED

AUG 1 0 1995

JUI 251995

IEPA-DLPC

IEPA-DLY



 		-		
			v.	What is a second
				(%)
	•			

June 21, 1995

I received a call from a Mr. Frank Krueger of 2501 James Street in Blue Island, Illinois, telephone no. 708-389-6004. He has a citizen complaint concerning Industrial toxic waste being dumped into Residential Sewers. He claims to have reported his complaints about this same situation over the past 17 years to the Streets and Sanitation Dept. of Blue Island and their Fire Dept. Apparently they have flushed out the sewers and taken gas readings with do not show much but, Mr. Krueger says the stinch comes and goes. He indicated he had talked to the Water Reclamation District and the Illinois EPA. He said he talked to Allan Anderson of IEPA on 6-20 at 708-338-7900 (Maywood Office) and a Sherry Sopkcak\Phalln at 312-821-2071 of the Water Reclamation District. He claimed Mr. Anderson told him that IEPA did not have jurisdiction and that the Water Reclamation District did. He has also talked to someone by the name of Rosemary Cazau in the Illinois Attorney Generals Office, either in Markham or Chicago.

He claims he has cancer, along with several others in the area, and they contribute it to the gas additive (Cumen ?) that BTL company, which is on Clark Oil Refinery property, has been producing over the last y ar or so.

I advised him that someone from the Enforcement Branch would be corresponding with the IEPA, et.al, and he would be receiving copies of the correspondence.

PPA6.



# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS

THE UNITED STATES OF AMERICA, )	
Plaintiff, )	
vs.	No. 98 C 5618
CLARK REFINING AND MARKETING, INC.,	Judge Marovich
Defendant. )	

## CLARK REFINING & MARKETING, INC.'S ANSWER TO COMPLAINT

Defendant, CLARK REFINING & MARKETING, INC. ("Clark"), by and through its undersigned counsel, hereby answers the Complaint of the United States of America as follows:

## NATURE OF ACTION

## Paragraph No. 1 Alleges:

This is a civil action brought against Clark Refining & Marketing, Inc. ("Clark") to obtain injunctive relief and assessment of civil penalties for certain violations of the following federal statutes and the applicable federal, state, and local regulations and other provisions implementing those statutes: the Clean Air Act ("CAA"), 42 U.S.C. § 7401 et seq.; the Clean Water Act ("CWA"), 33 U.S.C. § 1311 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq.; and the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11001 et seq. The violations alleged in the Complaint occurred and are occurring at Clark's petroleum refinery in Blue Island, Illinois.

## Answer to Paragraph No. 1

Clark admits that the United States' complaint in this action purports to seek relief under the cited statutes, and Clark refers to the statutes for the terms thereof.

#### JURISDICTION AND VENUE

## Paragraph No. 2 Alleges:

This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355; Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Sections 309(b) and 311(b)(7) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Sections 109(c) and 113(b) of CERCLA, 42 U.S.C. §§ 9609(c) and 9613(b); and Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3).

#### Answer to Paragraph No. 2:

Admitted.

## Paragraph No. 3 Alleges:

Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1395; Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Sections 309(b) and 311(b)(7)(E) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Sections 109(c) and 113(b) of CERCLA, 42 U.S.C. §§ 9609(c) and 9613(b); and Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), because the violations alleged herein occurred and are occurring at Clark's Blue Island facility, which is located in this district.

## Answer to Paragraph No. 3:

Clark admits that venue is proper in this district because Clark's Blue Island refinery, which is the subject of the action, is located within the District. Clark denies any remaining allegations of this paragraph.

#### **NOTICE TO STATE**

#### Paragraph No. 4 Alleges:

Notice of the commencement of this action has been given to the State of Illinois pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 309(b) of the CWA, 33 U.S.C. § 1319(b); and Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

#### Answer to Paragraph No. 4:

Clark lacks sufficient information to admit or deny the allegation of this paragraph.

#### **DEFENDANT**

## Paragraph No. 5 Alleges:

Clark is incorporated under the laws of the State of Delaware and is registered to conduct business in the State of Illinois. Clark has owned and operated a petroleum refinery located at 131st Street and Kedzie Avenue, Blue Island, Cook County, Illinois (the "Blue Island Refinery" or the "Facility") at all times relevant to this complaint. Clark manufactures, among other things, gasoline, liquid petroleum gas, heating fuel, jet fuel, diesel fuel, and asphalt at the Blue Island Refinery.

#### Answer to Paragraph No. 5:

Clark admits the allegations of the first and third sentences of this paragraph. Clark admits that it has owned and operated the Blue Island Refinery since 1988, but Clark lacks sufficient information to admit or deny allegations regarding the time period that the United States believes is "relevant" to its complaint.

## Paragraph No. 6 Alleges:

25

Clark Refining & Marketing, Inc., is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e); Section 502(5) of the CWA, 33 U.S.C. § 1362(5); Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); Section 101(21) of CERCLA, 42 U.S.C. § 9601(21); Section 329(7) of EPCRA, 42 U.S.C. § 11049(7); and applicable federal, state, and local regulations promulgated pursuant to the foregoing, including Article II of the Metropolitan Water Reclamation District of Greater Chicago's Sewage and Waste Control Ordinance, as amended.

## Answer to Paragraph No. 6:

Clark admits that it is a "person" as defined in the cited statutes and ordinance, but Clark lacks sufficient information to admit or deny the allegation regarding unspecified federal, state, and local regulations.

## Paragraph No. 7 Alleges:

The Blue Island Refinery is a "petroleum refinery" within the meaning of 40 C.F.R. §§ 60.101(a) and 61.341 and 35 Illinois Admin. Code § 211.4630.

## Answer to Paragraph No. 7:

Admitted.

# STATUTORY AND REGULATORY BACKGROUND AND GENERAL ALLEGATIONS

# Clean Air Act National Emission Standards for Hazardous Air Pollutants

## Paragraph No. 8 Alleges:

Section 112 of the CAA, 42 U.S.C. § 7412, requires U.S. EPA to promulgate emission standards for certain categories of sources of hazardous air pollutants ("National Emission Standards for Hazardous Air Pollutants" or "NESHAPs").

## Answer to Paragraph No. 8:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 9 Alleges:

Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), U.S. EPA promulgated National Emission Standards for Benzene Waste Operations ("Benzene Waste Operations NESHAP"). Those regulations are set forth at 40 C.F.R. Part 61, Subpart FF. Pursuant to 40 C.F.R. § 61.340(a), the provisions of 40 C.F.R. Part 61, Subpart FF apply, inter alia, to petroleum refineries.

#### Answer to Paragraph No. 9:

Admitted.

#### Paragraph No. 10 Alleges:

Clark's Blue Island Refinery is subject to the Benzene Waste Operations NESHAP, 40 C.F.R. Part 61, Subpart FF.

## Answer to Paragraph No. 10:

Clark admits that the Blue Island Refinery is subject to the provisions of the cited regulations, some but not all of which apply to the Refinery's operations.

## Paragraph No. 11 Alleges:

40 C.F.R. § 61.342(b) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF, and at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr, to manage and treat the facility waste pursuant to the requirements of 40 C.F.R. §§ 61.342(c)-(e).

## Answer to Paragraph No. 11:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 12 Alleges:

The total annual benzene quantity in the Blue Island Refinery's waste is and/or has been equal to or greater than 10 Mg/yr.

#### Answer to Paragraph No. 12:

Denied.

## Paragraph No. 13 Alleges:

Benzene is a cyclic hydrocarbon compound that is a volatile, flammable liquid at room temperature. Benzene has been determined to be a human carcinogen based on studies that link occupational exposure to benzene with leukemia. No threshold level has been established for risks to human health from exposure to benzene.

## Answer to Paragraph No. 13:

Clark admits the allegations of the first sentence. Clark lacks sufficient information to admit or deny the remaining allegations of this paragraph.

#### Paragraph No. 14 Alleges:

40 C.F.R. §§ 61.342(a) and 61.355(a) require each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF, to determine the total annual benzene quantity from facility waste by summing the annual benzene quantity of specified waste streams. These provisions also require such owners and operators to determine the annual benzene quantity for specified waste streams, including waste streams with a flow-weighted annual average water content greater than 10 percent water and waste streams that are mixed with water, or other wastes, at any time and the mixture has an annual average water content greater than 10 percent.

## Answer to Paragraph No. 14:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 15 Alleges:

40 C.F.R. § 61.357(a) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF to submit a report that includes, inter alia, the total annual benzene quantity from facility waste determined in accordance with 40 C.F.R. § 61.355(a) and a table identifying each waste stream having a flow weighted annual average water content greater than 10 percent and whether the waste stream will be controlled for benzene emissions.

## Answer to Paragraph No. 15:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 16 Alleges:

40 C.F.R. § 61.356(b)(1) requires each owner or operator of a facility subject to 40 C.F.R. Part 61. Subpart FF to maintain records for each waste stream not controlled for benzene emissions in accordance with Subpart FF including, <u>inter alia</u>, all test results, measurements, calculations, and specified other documentation regarding each waste stream and each waste stream's benzene content.

#### Answer to Paragraph No. 16:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 17 Alleges:

40 C.F.R. § 61.357(c) and (d)(2) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF that has a total annual benzene quantity from facility waste equal to or greater than 1 Mg/yr to submit an annual report that, inter alia, updates the information required in 40 C.F.R. § 61.357(a)(l)-(3).

## Answer to Paragraph No. 17:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 18 Alleges:

40 C.F.R. § 61.357(d)(1) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr, to certify by April 7, 1993 that the equipment necessary to comply with the control requirements of Subpart FF has been installed and the required initial inspections or tests have been carried out in accordance with Subpart FF. 40 C.F.R. § 61.357(d)(7) requires each such owner or operator to submit a quarterly report on the performance of the equipment installed to comply with the control requirements of Subpart FF. 40 C.F.R. § 61.357(d)(8) requires each such owner or operator to submit an annual report that summarizes all inspections required by 40 C.F.R. §§ 61.342 through 61.354 during which detectable emissions are measured or a problem that could result in benzene emissions is identified.

# Answer to Paragraph No. 18:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 19 Alleges:

40 C.F.R. § 61.05(c) prohibits an owner or operator of a facility from operating an existing source subject to a NESHAP standard in violation of the standard, except under a waiver or exemption granted pursuant to the CAA. Clark was not granted a waiver or exemption to the Benzene Waste Operations NESHAP.

## Answer to Paragraph No. 19:

Clark refers to the regulation cited in the first sentence for its terms and denies any inaccurate or incomplete characterization thereof. Clark admits the allegations of the second sentence.

## Paragraph No. 20 Alleges:

Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Clark on September 30, 1996, that Clark was in violation of the Benzene Waste Operations NESHAP.

## Answer to Paragraph No. 20:

Clark denies the allegations of this paragraph, although answering further Clark states that on or about October 3, 1996, it received a Finding of Violation (FOV) from U.S. EPA dated September 30, 1996, which alleged that Clark was in violation of the Benzene Waste Operations NESHAP; and that the FOV was accompanied by a letter which states that the FOV was issued pursuant to 42 U.S.C. § 7413(a)(1) and (a)(3). Further answering, Clark denies that it was in violation of the referenced NESHAP.

## Paragraph No. 21 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. Section 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed \$25,000 per day for each violation of the CAA, including violations of any NESHAP. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

#### Answer to Paragraph No. 21:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Clean Air Act -New Source Performance Standards

## Paragraph No. 22 Alleges:

Section 111 of the Clean Air Act, 42 U.S.C. § 7411, requires U.S. EPA to promulgate standards of performance for certain categories of new air pollution sources ("New Source Performance Standards" or "NSPS").

#### Answer to Paragraph No. 22:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

### Paragraph No. 23 Alleges:

Pursuant to Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), U.S. EPA promulgated general regulations applicable to all NSPS source categories. Those general regulations are set forth at 40 C.F.R. Part 60, Subpart A.

## Answer to Paragraph No. 23:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 24 Alleges:

Pursuant to Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), U.S. EPA promulgated NSPS regulations applicable to petroleum refineries. Those regulations are set forth at 40 C.F.R. Part 60, Subpart J.

# Answer to Paragraph No. 24:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 25 Alleges:

Claus sulfur recovery plants, except Claus plants of 20 long tons per day or less, for which construction or modification commenced after October 4, 1976 are subject to 40 C.F.R. Part 60, Subpart J.

#### Answer to Paragraph No. 25:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 26 Alleges:

Clark's Claus sulfur recovery plant was constructed or modified after October 4, 1976 and is greater than 20 long tons per day, and is therefore subject to 40 C.F.R. Part 60, Subpart J.

## Answer to Paragraph No. 26:

Denied.

## Paragraph No. 27 Alleges:

40 C.F.R. § 60.105(a)(6) requires sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems not followed by incineration to install, calibrate, maintain, and operate continuous monitoring system ("CEMS") for measuring and recording the concentration of reduced sulfur and O<sub>2</sub> emissions into the atmosphere.

#### Answer to Paragraph No. 27:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 28 Alleges:

40 C.F.R. § 60.13(g) provides, inter alia, that when the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable CEMS on each separate effluent, unless fewer systems are approved by U.S. EPA.

### Answer to Paragraph No. 28:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 29 Alleges:

40 C.F.R. § 60.104(a)(2) prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems followed by incineration from discharging in excess of 250 ppm by volume (dry basis) of SO<sub>2</sub> at zero percent excess air. 40 C.F.R. § 60.104(a)(2) prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems not followed by incineration from discharging in excess of 300 ppm by volume of reduced sulfur compounds and in excess of 10 ppm by volume of hydrogen sulfide, each calculated as ppm SO<sub>2</sub> by volume (dry basis) at zero percent excess air.

## Answer to Paragraph No. 29:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 30 Alleges:

40 C.F.R. § 60.11(d) requires owners and operators of facilities subject to 40 C.F.R. Part 60, Subpart J to maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

## Answer to Paragraph No. 30:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 31 Alleges:

40 C.F.R. § 60.7(c) requires owners or operators that are required to install CEMS pursuant to 40 C.F.R. Part 60, Subpart J to submit to U.S. EPA, on a semiannual basis, excess emission and monitoring system performance reports that identify, inter alia, periods of emissions in excess of certain emissions requirements as specified in 40 C.F.R. §§ 60.7(c) and 60.105(c)(4).

## Answer to Paragraph No. 31:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 32 Alleges:

40 C.F.R. § 60.8(a) requires owners or operators of facilities subject to 40 C.F.R. Part 60, Subpart J to conduct a performance test within 60 days of achieving maximum production rate, but not later than 180 days after initial startup. 40 C.F.R. § 60.106(f)(2) requires performance testing on Claus sulfur recovery plants with reduction control devices not followed by incineration be tested in accordance with Method 15 of 40 C.F.R. Part 60, Appendix A, to determine the reduced sulfur and H<sub>2</sub>S concentration in its emissions.

## Answer to Paragraph No. 32:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 33 Alleges:

Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Clark on August 19, 1997, that Clark was in violation of the NSPS for Petroleum Refineries set forth in 40 C.F.R. Part 60, Subparts A and J.

## Answer to Paragraph No. 33:

Clark denies the allegations of this paragraph, although answering further Clark states that on or about August 21, 1997, it received a Finding of Violation (FOV) from U.S. EPA dated August 19, 1997, which alleged that Clark was in violation of the referenced NSPS standards; and that the FOV was accompanied by a letter which states that the FOV was issued pursuant to 42 U.S.C. 7413 (a)(3). Further answering, Clark denies that it was in violation of the referenced NSPS.

## Paragraph No. 34 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. Section 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed \$25,000 per day for each violation of the CAA, including violations of any NSPS. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

## Answer to Paragraph No. 34:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Clean Air Act -State Implementation Plan

## Paragraph No. 35 Alleges:

Section 109 of the Clean Air Act, 42 U.S.C. § 7409, requires U.S. EPA to promulgate regulations establishing primary and secondary National Ambient Air Quality Standards ("NAAQS") for certain listed air pollutants, including ozone. The primary NAAQS shall be sufficient to protect the public health, allowing an adequate margin of safety, and the secondary NAAQS shall be sufficient to protect the public welfare from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air. The NAAQS promulgated by the Administrator pursuant to Section 109 of the Act are set forth at 40 C.F.R. Part 50.

## Answer to Paragraph No. 35:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 36 Alleges:

Section 110 of the CAA, 42 U.S.C. § 7410, required each state to adopt and submit to U.S. EPA for approval a State Implementation Plan ("SIP") that provides for the attainment and maintenance of the NAAQS, including the NAAQS for ozone.

## Answer to Paragraph No. 36:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete

## Paragraph No. 37 Alleges:

characterization thereof.

Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, portions of the Illinois SIP, including 35 Illinois Administrative Code ("I.A.C.") Part 218, have been submitted to, and approved by, U.S. EPA. 35 I.A.C. Part 218 establishes Organic Material Emission Standards and Limitations for the Chicago Area. 35 I.A.C. 218, Subpart R establishes standards for Petroleum Refining and Related Industries, including the requirement that subject facilities establish a leak detection and repair ("LDAR") program. U.S. EPA approved 35 I.A.C. 218, Subpart R on September 9, 1994. These regulations are designed to prevent certain emissions of volatile organic compounds from petroleum refineries by requiring each valve, pump and compressor in service to be identified, monitored and repaired on a routine basis using specified procedures.

## Answer to Paragraph No. 37:

Clark admits the allegations of the first and fourth sentences. Clark refers to the statute and regulations cited in the second and third sentences for their terms and denies any inaccurate or incomplete characterization thereof. Clark lacks sufficient information to admit or deny the allegations of the fifth sentence.

## Paragraph No. 38 Alleges:

35 I.A.C. § 218.447(a) requires the owner or operator of a petroleum refinery to test certain valves and seals for leaks using equipment calibrated using the methods referenced in 35 I.A.C. § 218.105(g). 35 I.A.C. § 218.105(g)(1)(D) requires calibration gases to be set at zero air (less than 10 ppm hydrocarbon in the air) and a mixture of methane or n-hexane and air at a concentration of approximately, but no less than, 10,000 ppm methane or n-hexane.

# Answer to Paragraph No. 38:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 39 Alleges:

35 I.A.C. § 218.445(d) provides that the owner or operator of a petroleum refinery shall identify each component subject to leak monitoring.

## Answer to Paragraph No. 39:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 40 Alleges:

35 I.A.C. § 218.446(a)(1) requires the owner or operator of a petroleum refinery to prepare a monitoring program that identifies all refinery components and the period in which each will be monitored.

## Answer to Paragraph No. 40:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 41 Alleges:

35 I.A.C. § 218.446(a)(4) provides that a monitoring program prepared pursuant to 35 I.A.C. § 218.446(a) must describe the methods to be used to identify all pipeline valves, pressure relief valves in gaseous service and all leaking components such that they are obvious to both refinery personnel performing monitoring and Agency personnel performing inspections.

## Answer to Paragraph No. 41:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 42 Alleges:

35 I.A.C. § 218.447(a)(2) requires the owner or operator of a petroleum refinery to test once each quarter of each calendar year, by the method referenced in 35 I.A.C. § 218.105(g), all pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals.

## Answer to Paragraph No. 42:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 43 Alleges:

40 C.F.R. § 52.23 provides, <u>inter alia</u>, that any failure by a person to comply with any approved regulatory provision of a SIP shall render such person subject to enforcement action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

## Answer to Paragraph No. 43:

Clark refers to the cited statute and regulation for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 44 Alleges:

Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Clark on September 30, 1996, that Clark was in violation of applicable federally enforceable state air requirements.

## Answer to Paragraph No. 44:

Clark admits that the U.S. EPA provided the referenced notice on September 30, 1996, but Clark denies that it was in violation of applicable federally enforceable state air requirements.

## Paragraph No. 45 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed \$25,000 per day for each violation of the CAA, including violations of any applicable implementation plan. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

#### Answer to Paragraph No. 45:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Clean Water Act Direct Discharges

## Paragraph No. 46 Alleges:

The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States. 33 U.S.C. § 1251(a).

# Answer to Paragraph No. 46:

Clark lacks sufficient information to admit or deny the allegations of this paragraph.

## Paragraph No. 47 Alleges:

Section 301(a) of the CWA, 33 U.S.C. § 1251(a), prohibits the discharge of any pollutant into navigable waters of the United States by any person except in compliance with, inter alia, a

National Pollutant Discharge Elimination ("NPDES") permit issued by U.S. EPA or an authorized state pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

## Answer to Paragraph No. 47:

Clark refers to the cited statutes for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 48 Alleges:

Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that U.S. EPA or an authorized state, in issuing NPDES permits, shall prescribe conditions for such permits as the permitting authority determines are necessary to carry out the provisions of the CWA.

## Answer to Paragraph No. 48:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 49 Alleges:

The State of Illinois is authorized by the Administrator of U.S. EPA, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), to administer the NPDES permit program for discharges into navigable waters within its jurisdiction.

#### Answer to Paragraph No. 49:

Admitted.

#### Paragraph No. 50 Alleges:

The Cal-Sag Channel is a "navigable water" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

#### Answer to Paragraph No. 50:

Admitted.

## Paragraph No. 51 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), U.S. EPA may commence a civil action for injunctive relief and civil penalties of up to \$25,000 per day for

each violation of the CWA, including discharges of any pollutant without, or not in compliance with the terms and conditions of, an NPDES permit. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

## Answer to Paragraph No. 51:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Clean Water Act <u>Discharges To POTW</u>

## Paragraph No. 52 Alleges:

Section 307(b) of the CWA, 33 U.S.C. § 1317(b), requires the Administrator of U.S. EPA to establish pretreatment standards for existing and new sources that introduce pollutants into any publicly-owned "treatment works" ("POTW"), as defined in Section 212(2) of the CWA, 33 U.S.C. § 1292(2).

## Answer to Paragraph No. 52:

Clark refers to the cited statutes for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 53 Alleges:

Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits the owner or operator of any source from operating the source in violation of any pretreatment standard after the effective date of such standard.

#### Answer to Paragraph No. 53:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

### Paragraph No. 54 Alleges:

Pursuant to Section 307(b)(1) of the CWA, 33 U.S.C. § 1317(b)(1), the Administrator of U.S. EPA promulgated General Pretreatment Regulations for Existing and New Sources of Pollution. Such Standards are codified at 40 C.F.R. Part 403.

## Answer to Paragraph No. 54:

Admitted.

## Paragraph No. 55 Alleges:

The provisions of 40 C.F.R. Part 403 apply to each "User" introducing pollutants into POTW.

#### Answer to Paragraph No. 55:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 56 Alleges:

Clark is an "Industrial User" or "User" that introduces pollutants into a POTW owned and operated by the Metropolitan Water Reclamation District of Greater Chicago ("MWRDGC"), within the meaning of 40 C.F.R. Part 403.3(h) and 403.5(b). Clark is subject to the requirements of 40 C.F.R. Part 403.

#### Answer to Paragraph No. 56:

Clark admits the allegations of the first sentence. Clark admits that the Blue Island Refinery is subject to the requirements of 40 C.F.R. Part 403, some but not all of which apply to the Refinery.

## Paragraph No. 57 Alleges:

Pursuant to Section 307(b) of the CWA, 33 U.S.C. § 1317(b), and 40 C.F.R. §§ 403.5(c) and 403.8, each POTW with a total design flow greater than five million gallons of water per day and which receives pollutants from industrial users subject to pretreatment standards is required to establish its own Pretreatment Program and to establish specific limits ("local limits") to implement the prohibitions in 40 C.F.R. § 403.5(a)(1) and (b).

## Answer to Paragraph No. 57:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 58 Alleges:

Under 40 C.F.R. § 403.5(d), a POTW's local limits established pursuant to 40 C.F.R. § 403.5(c) are deemed to be pretreatment standards for the purposes of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

## Answer to Paragraph No. 58:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 59 Alleges:

In accordance with 40 C.F.R. §§ 403.5(c) and 403.8, the Metropolitan Sanitary District of Greater Chicago, and its successor, the MWRDGC, developed and submitted to U.S. EPA for approval a local pretreatment program, including local limits governing discharges into sewerage systems under the jurisdiction of the MWRDGC. Such local limits are set forth in Appendix B to the "Sewage and Waste Control Ordinance," as promulgated by the Metropolitan Sanitary District of Greater Chicago, and further amended by the MWRDGC ("MWRDGC Ordinance" or "Ordinance").

## Answer to Paragraph No. 59:

Clark lacks sufficient information to admit or deny the first sentence of this paragraph.

With respect to the allegations of the second sentence, Clark refers to the Ordinance for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 60 Alleges:

Pursuant to 40 C.F.R. § 403.9, U.S. EPA approved a local pretreatment program for POTWs owned or operated by the MWRDGC. MWRDGC is a "Control Authority" within the meaning of 40 C.F.R. §§ 403.6(e) and 403.12(a).

## Answer to Paragraph No. 60:

Clark lacks sufficient information to admit or deny the allegations of this paragraph.

## Paragraph No. 61 Alleges:

In accordance with 40 C.F.R. § 403.5(d), the effluent limits established in Appendix B of the MWRDGC Ordinance are federally enforceable pretreatment standards for purposes of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

## Answer to Paragraph No. 61:

Clark lacks sufficient information to admit or deny the allegations of this paragraph.

## Paragraph No. 62 Alleges:

Pursuant to Section 307(b)(1) of the CWA, 33 U.S.C. § 1317(b)(1), the Administrator of U.S. EPA promulgated categorical pretreatment standards applicable to discharges of process wastewater to POTWs from various categories of industrial sources, including the Petroleum Refinery Point Source Category. Pretreatment standards applicable to various petroleum refinery sources are codified at 40 C.F.R. Part 419.

#### Answer to Paragraph No. 62:

Clark admits the allegations of the first sentence of this paragraph. With respect to the allegations of the second sentence, Clark refers to the regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 63 Alleges:

Effluent limits applicable to process wastewater discharges from facilities that produce petroleum products by the use of cracking, one of several subcategories in the Petroleum Refinery Point Source Category, are set forth in Subpart B of 40 C.F.R. Part 419. Standards for facilities regulated under the cracking subcategory that were in existence at the time the rule was promulgated, called Pretreatment Standards for Existing Sources ("PSES"), are set forth at 40 C.F.R. § 419.25. Existing sources within the cracking subcategory were required

to comply with PSES effluent limitations by October 18, 1985, three years after promulgation of the regulations.

## Answer to Paragraph No. 63:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 64 Alleges:

At the time of promulgation of the Petroleum Refinery Point Source Category regulations, Clark's Blue Island Refinery was an existing facility refining crude oil into crude using the cracking process.

# Answer to Paragraph No. 64:

Clark states that it did not own or operate the Blue Island Refinery at the time of promulgation of the cited regulations. In addition, Clark does not understand the phrase "refining crude oil into crude." To the extent Clark understands the allegation, Clark denies it.

# Paragraph No. 65 Alleges:

On various occasions from 1993 to the present date, Clark discharged process wastewater that resulted from the production of petroleum using the cracking process at the Blue Island Refinery into a POTW operated by the MWRDGC. Throughout this period, the Facility was subject to the Pretreatment Standards for Existing Sources contained in Subpart B of the Petroleum Refinery Point Source Category regulations, 40 C.F.R. Part 419.

## Answer to Paragraph No. 65:

The allegations of the first sentence are too vague and unspecific for Clark to admit or deny, except that Clark admits that it discharged pretreated process wastewater from the cracking process at the Blue Island Refinery into a POTW operated by the MWRDGC. Clark admits the allegations of the second sentence.

## Paragraph No. 66 Alleges:

On June 30, 1994, MWRDGC issued Discharge Authorization ("DA") 13468-1 to Clark. DA 13468-1 had an effective date of June 30, 1994 and an expiration date of June 29, 1997, which was administratively extended to December 29, 1997. DA 13468-1 incorporates the federal categorical requirements and the local limits applicable to Clark. DA 13468-1 contains effluent limitations for discharges at Outlets 1A and 3A.

#### Answer to Paragraph No. 66:

Admitted.

## Paragraph No. 67 Alleges:

Pursuant to 40 C.F.R. § 403.12(e), Industrial Users subject to categorical pretreatment standards are required to submit to the Control Authority, on a periodic basis, reports known as "Continued Compliance Reports," which include information on the nature and concentration of pollutants discharged. Pursuant to 40 C.F.R. § 403.12(e) and the MWRDGC Ordinance, Clark was required to submit such Continued Compliance Reports to MWRDGC in June and December of each year.

## Answer to Paragraph No. 67:

With respect to the allegations of the first sentence, Clark refers to the cited regulation and Ordinance for their terms and denies any inaccurate or incomplete characterization thereof. Clark admits the allegations of the second sentence.

## Paragraph No. 68 Alleges:

Section F(1) of DA 13468-1 provides that Clark must report all violations identified as a result of self monitoring to MWRDGC by telephone within 24 hours of the time Clark becomes aware of such violation. In addition, 40 C.F.R. § 403.12(g)(2) provides that if sampling performed by an Industrial User indicates a violation of an effluent standard, the Industrial User must notify the Control Authority within 24 hours of becoming aware of a violation.

#### Answer to Paragraph No. 68:

Clark refers to the cited discharge authorization and regulation for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 69 Alleges:

Section F(2) of DA 13468-1 provides that Clark must submit all self-monitoring discharge analytical data to the Director of MWRDGC's Research and Development Department. In addition, 40 C.F.R. § 403.12(g)(5) provides that if an Industrial User subject to the reporting requirements in 40 C.F.R. § 403.12(e) monitors any pollutant more frequently than required by the Control Authority, the results of the monitoring must be included in the report, regardless of whether or not the data is in addition to the minimum reporting requirements.

## Answer to Paragraph No. 69:

Clark refers to the cited discharge authorization and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 70 Alleges:

Pursuant to 40 C.F.R. § 403.12(d), within 90 days of the deadline for final compliance with a categorical pretreatment standard, each Industrial User subject to such standard is required to submit to the Control Authority a report, known as a "Final Compliance Report," containing the information set forth in 40 C.F.R. § 403.12(b)(4)-(6). 40 C.F.R. § 403.12(b)(6) requires the Industrial User to include a statement, reviewed by an authorized representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards.

## Answer to Paragraph No. 70:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 71 Alleges:

The MWRDGC Ordinance and DA 13468-1 require each Industrial User to include in each Continued Compliance Report a statement, reviewed by an authorized representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards.

## Answer to Paragraph No. 71:

Clark refers to the cited Ordinance and discharge authorization for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 72 Alleges:

Section C, Item 4 of DA 13468-1 requires each Industrial User subject to the terms and conditions of the Ordinance to install and maintain, at its own expense, pretreatment facilities adequate to prevent a violation of the pollutant concentration limits, discharge prohibitions, or performance criteria of the Ordinance.

#### Answer to Paragraph No. 72:

Clark refers to the cited Ordinance and discharge authorization for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 73 Alleges:

Clark is, and at all pertinent times has been, an "Industrial User" of a POTW under the jurisdiction of the MWRDGC, within the meaning of Section 502(18) of the CWA, 33 U.S.C. § 1362(18), 40 C.F.R. § 403.3(h), and Article II of the MWRDGC Ordinance. Clark also is, and at all pertinent times has been, a "Significant Industrial User" of a POTW, within the meaning of 40 C.F.R. § 403.3(t).

## Answer to Paragraph No. 73:

Clark admits that it is an "Industrial User" and a "Significant Industrial User" of a POTW, but lacks sufficient information to admit or deny the remaining allegations of the paragraph.

#### Paragraph No. 74 Alleges:

40 C.F.R. § 403.17(d) prohibits, except in limited circumstances not relevant to this complaint, the intentional diversion of waste streams from any portion of an Industrial User's treatment facility, known as a "bypass."

## Answer to Paragraph No. 74:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

### Paragraph No. 75 Alleges:

40 C.F.R. § 403.17(c) requires an Industrial User to submit prior notice of the need to bypass the wastewater treatment facility to the Control Authority if the Industrial User knows in advance of the need for a bypass.

#### Answer to Paragraph No. 75:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 76 Alleges:

Clark is an owner or operator of a source that is subject to an effluent standard or prohibition or pretreatment standard under Section 307 of the CWA, within the meaning of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

## Answer to Paragraph No. 76:

Admitted.

#### Paragraph No. 77 Alleges:

Section 309(a)(3), (b), and (d) of the CWA, 33 U.S.C. § 1319(a)(3), (b), and (d), authorizes the United States to commence an action for appropriate relief, including a permanent or temporary injunction and civil penalties not to exceed \$25,000 per day for each violation, when any person is in violation of the pretreatment requirements under Section 307 of the CWA, 33 U.S.C. § 1317, including any violation of local limits established pursuant to 40 C.F.R. § 403.5(c) and federal categorical limits established pursuant to 40 C.F.R. Part 419. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

#### Answer to Paragraph No. 77:

Clark refers to the cited statutes for their terms and denies any inaccurate or incomplete characterization thereof.

# Clean Water Act Discharges of Oil or Hazardous Substances

## Paragraph No. 78 Alleges:

Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

## Answer to Paragraph No. 78:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 79 Alleges:

Section 311(b)(5) of the CWA, 33 U.S.C. §1321(b)(5), requires any person in charge of a vessel or facility that discharges oil or hazardous substances in violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), to immediately notify the appropriate agency of the United States government of such discharge.

## Answer to Paragraph No. 79:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 80 Alleges:

U.S. EPA has promulgated regulations implementing Section 311(b)(3) and (b)(5) of the CWA, 33 U.S.C. § 1321(b)(3) and (b)(5), at 40 C.F.R. Part 110.

## Answer to Paragraph No. 80:

Admitted.

#### Paragraph No. 81 Alleges:

40 C.F.R. § 110.3 provides that for the purposes of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), discharges of oil that may be harmful to the public health or welfare of the United States include, inter alia, discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the water or adjoining shorelines.

#### Answer to Paragraph No. 81:

Clark refers to the cited statute and regulation for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 82 Alleges:

40 C.F.R. § 110.10 provides that the notification of a prohibited discharge required by Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5), must be made to the National Response Center.

#### Answer to Paragraph No. 82:

Clark refers to the cited statute and regulation for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 83 Alleges:

Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.

# Answer to Paragraph No. 83:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 84 Alleges:

U.S. EPA has promulgated regulations implementing Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), at 40 C.F.R. Part 112, including regulations requiring non-transportation related onshore and offshore facilities to prepare, implement and maintain Spill Prevention Control and Countermeasures ("SPCC") plans.

## Answer to Paragraph No. 84:

Clark admits that U.S. EPA has promulgated the referenced regulations, refers to the regulations for their terms, and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 85 Alleges:

The Blue Island Refinery is an "onshore" facility as defined in Section 311(a)(11) of the CWA, 33 U.S.C. § 1321(a)(11), and 40 C.F.R. § 112.2. The Facility is "non-transportation related" under the definition incorporated by reference at 40 C.F.R. § 112.2 and 40 C.F.R. Part 112, Appendix A.

# Answer to Paragraph No. 85:

Admitted.

# Paragraph No. 86 Alleges:

40 C.F.R. § 112.3 provides that owners and operators of facilities that have discharged, or because of their location could reasonably be expected to discharge, oil in harmful quantities into the navigable waters of the United States to prepare a Spill Prevention and Countermeasures Plan ("SPCC Plan"). 40 C.F.R. § 112.3(e) provides that owners and operators for which an SPCC Plan is required to maintain a complete copy of the SPCC Plan at the facility if the facility is normally attended at least eight hours per day, and shall make the SPCC Plan available to the Regional Administrator for on-site review during normal working hours.

# Answer to Paragraph No. 86:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 87 Alleges:

Clark has discharged, or because of its location could reasonably be expected to discharge, oil in harmful quantities into the navigable waters of the United States.

# Answer to Paragraph No. 87:

Denied.

# Paragraph No. 88 Alleges:

Clark's Blue Island Refinery is normally attended at least eight hours per day.

# Answer to Paragraph No. 88:

Admitted.

## Paragraph No. 89 Alleges:

40 C.F.R. § 112.7 provides that if the SPCC Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items should be discussed in separate paragraphs, and the details of installation and operational start-up should be explained separately. 40 C.F.R. § 112.5(a) provides that owners and operators of subject facilities must amend their SPCC Plan when there is a change in facility design, construction, operation, or maintenance, and fully implement the SPCC plan as soon as possible, but not later than six months after the change occurs.

## Answer to Paragraph No. 89:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 90 Alleges:

40 C.F.R. § 112.5(b) provides that owners and operators of facilities that are required to prepare SPCC plans shall complete a review and evaluation of the SPCC Plan at least once every three years from the date the facility becomes subject to 40 C.F.R. Part 112.

## Answer to Paragraph No. 90:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 91 Alleges:

40 C.F.R. § 112.4 provides that a facility that has discharged oil in harmful quantities, as defined in 40 C.F.R. Part 110, into or upon the navigable waters of the United States or adjoining shorelines in two spill events, reportable under Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5), occurring within any twelve month period must submit the information listed in 40 C.F.R. § 112.4(a)(l)-(11) to the Regional Administrator within 60 days of the date the facility becomes subject to this subsection.

#### Answer to Paragraph No. 91:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 92 Alleges:

On numerous occasions since at least 1994, including but not limited to March 28, 1994 and May 4, 1994, Clark discharged reportable amounts of oil twice within a twelve month period.

## Answer to Paragraph No. 92:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny them.

## Paragraph No. 93 Alleges:

- 40 C.F.R. § 112.7(e) requires a facility's SPCC Plan to address, <u>inter alia</u>, the following guidelines:
- a. 40 C.F.R. § 112.7(e)(2)(ii): all bulk storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. In addition, all diked areas should be sufficiently impervious to contain spilled oil.
- b. 40 C.F.R. § 112.7(e)(2)(x): visible oil leaks that result in a loss of oil from tank seams, gaskets, rivets and bolts sufficiently large to cause the accumulation of oil in diked areas should be promptly corrected.
- c. 40 C.F.R. § 112.7(e)(2)(xi): mobile or portable oil storage tanks should be positioned or located so as to prevent spilled oil from reaching navigable waters. This section further requires that a secondary means of containment, such as dikes or catchment basins, should be furnished for the largest single compartment or tank and that these facilities should be located where they will not be subject to periodic flooding or washout.
- d. 40 C.F.R. § 112.7(e)(3)(iii): pipe supports should be properly designed to minimize abrasion and corrosion and allow for expansion and contraction.
- e. 40 C.F.R. § 112.7(e)(3)(v): vehicular traffic granted entry into the facility should be warned verbally or by appropriate signs to ensure that the vehicle, because of its size, will not endanger above ground piping.

#### Answer to Paragraph No. 93:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 94 Alleges:

Pursuant to Section 311(b)(7) and (e)(2) of the CWA, 33 U.S.C. § 1321(b)(7), U.S. EPA may commence a civil action for civil penalties of up to \$1,000 per barrel of oil or unit of

reportable quantity of hazardous substances discharged or \$25,000 per day for each violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and for civil penalties of up to \$25,000 per day of violation of any regulation issued under Section 311(j) of the CWA, 33 U.S.C. § 1321(j). Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

## Answer to Paragraph No. 94:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

#### Resource Conservation and Recovery Act

## Paragraph No. 95 Alleges:

RCRA establishes a comprehensive statutory scheme for the management of hazardous wastes from their initial generation until their final disposal. Regulations promulgated pursuant to RCRA regulate generators of hazardous wastes, as well as owners and operators of facilities that treat, store, or dispose of hazardous wastes ("TSD facilities"). The federal regulations implementing RCRA are codified at 40 C.F.R. Part 260 et seq.

## Answer to Paragraph No. 95:

Clark admits the allegations of this paragraph, except that Clark states that the characterization of the statutory scheme as "comprehensive" depends upon context and therefore cannot be admitted or denied.

#### Paragraph No 96 Alleges:

Clark is the owner and operator of a "facility" within the meaning of 35 I.A.C. § 720.110.

#### Answer to Paragraph No. 96:

Denied.

#### Paragraph No 97 Alleges:

Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, any state may apply for and receive authorization to enforce its own hazardous waste management program in place of the federal hazardous waste management program described in the preceding

paragraph, provided the state requirements are consistent with and equivalent to the federal requirements. To the extent that the state hazardous waste program is authorized by U.S. EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the requirements of the state program are effective in lieu of the federal hazardous waste management program set forth in 40 C.F.R. Part 260 et seq.

## Answer to Paragraph No. 97:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 98 Alleges:

Illinois has promulgated hazardous waste management regulations at 35 I.A.C. Part 700 et seq., and received authorization from U.S. EPA on January 31, 1986, to administer various aspects of the hazardous waste management program within Illinois.

## Answer to Paragraph No. 98:

Admitted.

## Paragraph No. 99 Alleges:

Generators of hazardous waste are subject to the regulations codified at 35 I.A.C. Part 722.

## Answer to Paragraph No. 99:

Admitted.

## Paragraph No. 100 Alleges:

From at least 1980 to the present, Clark has generated at its Facility hazardous wastes within the meaning of 35 I.A.C. Part 721 and 40 C.F.R. Part 261. Clark is therefore subject to the regulations applicable to generators of hazardous waste set forth in 35 I.A.C. Part 722.

#### Answer to Paragraph No. 100:

Clark denies the allegations of the first sentence. Clark admits that it generates and has generated hazardous waste at the Blue Island Refinery and is subject to applicable provisions of 35 I.A.C. Part 722.

## Paragraph No. 101 Alleges:

35 I.A.C. § 722.134(a)(1) and 725.273 require that containers holding hazardous waste be kept closed at all times, except when waste is being added or removed.

# Answer to Paragraph No. 101:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 102 Alleges:

35 I.A.C. § 722.134(a)(2) requires that a generator of hazardous waste who accumulates hazardous waste on-site in containers clearly mark each such container with the date upon which each period of accumulation begins.

#### Answer to Paragraph No. 102:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

## Paragraph No. 103 Alleges:

35 I.A.C. § 722.134(a)(3) requires that a generator of hazardous waste who accumulates hazardous waste on-site in containers or tanks must clearly label or mark each such container or tank with the words, "Hazardous Waste."

#### Answer to Paragraph No. 103:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

#### Paragraph No. 104 Alleges:

35 I.A.C. § 728.107 requires generators of waste restricted from land disposal under 35 I.A.C. Part 728, when shipping such waste off-site, to send to the TSD facility receiving the waste a written notice that includes the following information: the U.S. EPA hazardous waste number; the appropriate treatment standards; the manifest number associated with the shipment of waste; and waste analysis data. The generator must retain on-site a copy of all such notifications as required in the regulations.

# Answer to Paragraph No. 104:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 105 Alleges:

35 I.A.C. § 725.131, as referenced by 35 I.A.C. § 722.134(a)(4), requires generators of hazardous waste to maintain and operate their facilities to minimize the possibility of a fire, explosion or any unplanned release of hazardous waste or hazardous waste constituents to air, soil or surface water that could threaten human health or the environment.

# Answer to Paragraph No. 105:

Clark refers to the cited regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 106 Alleges:

40 C.F.R. § 265.1084(a)(2) requires a generator of hazardous waste to determine the average volatile organic ("VO") concentration of a hazardous waste at the point of waste origination using either direct measurement or by knowledge.

# Answer to Paragraph No. 106:

Clark refers to the cited regulation for its terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 107 Alleges:

Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and 35 I.A.C. Part 703 generally prohibit the operation of a TSD facility or hazardous waste management unit ("HWMU") except in accordance with a permit issued pursuant to RCRA, unless the facility has interim status. 35 I.A.C. § 703.121 specifically prohibits hazardous waste treatment, hazardous waste storage, or hazardous waste disposal without a RCRA permit for a hazardous waste management facility.

# Answer to Paragraph No. 107:

Clark refers to the cited statute and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 108 Alleges:

Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), 40 C.F.R. § 270.70, and 35 I.A.C. § 703.153 provide that a TSD facility in existence on November 19, 1980, that has not yet received a RCRA permit, may obtain interim status by (1) filing a timely notice that the facility is treating, storing, or disposing of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, and (2) filing a timely Part A application pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. § 270.10, and 35 I.A.C. §§ 703.150 and 703.152.

# Answer to Paragraph No. 108:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 109 Alleges:

Clark submitted a permit application to operate as a TSD facility at the Blue Island Refinery to IEPA signed November 17, 1980. On February 18, 1988, Clark requested a withdrawal of its TSD permit and a return to generator status. IEPA approved the withdrawal request on February 18, 1994.

# Answer to Paragraph No. 109:

Admitted.

# Paragraph No. 110 Alleges:

Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), the United States is authorized, upon notification to the State of Illinois, to enforce the regulations which comprise the federally approved Illinois hazardous waste management program.

# Answer to Paragraph No. 110:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 111 Alleges:

Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that when any person has violated or is in violation of any requirement of RCRA, including provisions of a federally approved state hazardous waste management program, the Administrator of U.S. EPA may commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

#### Answer to Paragraph No. 111:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 112 Alleges:

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), provides that any person who violates a requirement of RCRA she be liable for a civil penalty of up to \$25,000 per day for each violation. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

# Answer to Paragraph No. 112:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Comprehensive Environmental Response, <u>Compensation and Liability Act</u>

#### Paragraph No. 113 Alleges:

Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires a person in charge of a facility to immediately notify the National Response Center of a release of a hazardous substance from such facility in an amount equal to or greater than the amount determined pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602 (the "reportable quantity").

# Answer to Paragraph No. 113:

Clark refers to the cited statutes for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 114 Alleges:

Section 109(c)(1) of CERCLA, 42 U.S.C. § 9609(c)(1), provides that any person who violates the notice requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), shall be liable to the United States for civil penalties in an amount not to exceed \$25,000 per day for each day the violation continues, and in an amount not to exceed \$75,000 per day for each day that any second or subsequent violation continues. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for the first violation and \$82,500 per day for any second or subsequent violations, may be assessed for violations occurring on or after January 30, 1997.

# Answer to Paragraph No. 114:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# Emergency Planning and Community Right-to-Know Act

# Paragraph No. 115 Alleges:

Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), requires the owner and operator of a facility at which a hazardous chemical is produced, used, or stored, to immediately notify the State Emergency Response Commission ("SERC") and the Local Emergency Planning Committee ("LEPC") of certain specified releases of a hazardous or extremely hazardous substance.

#### Answer to Paragraph No. 115:

Clark refers to the cited statute for its terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 116 Alleges:

Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator shall provide a written follow-up emergency notice providing certain specified additional information.

# Answer to Paragraph No. 116:

Clark refers to the cited statutes for their terms and denies any inaccurate or incomplete characterization thereof.

# Paragraph No. 117 Alleges:

Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), provides that any person who violates any requirement of Section 304 of EPCRA, 42 U.S.C. § 11004, shall be liable to the United States for civil penalties in an amount not to exceed \$25,000 per day for each day the violation continues, and in an amount not to exceed \$75,000 per day for each day that any second or subsequent violation continues. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to \$27,500 per day for the first violation, and \$82,500 per day for any second or subsequent violations, may be assessed for violations occurring on or after January 30, 1997.

# Answer to Paragraph No. 117:

Clark refers to the cited statutes and regulations for their terms and denies any inaccurate or incomplete characterization thereof.

# FIRST CLAIM FOR RELIEF (CAA/NESHAP) Failure To Manage and Treat Wastes

# Paragraph No. 118 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 above.

# Answer to Paragraph No. 118:

Clark realleges its answers to paragraph 1 through 45 above as if fully set forth herein.

# Paragraph No. 119 Alleges:

Since April 5, 1993, Clark has failed to manage and treat the Blue Island Refinery's waste pursuant to the requirements of 40 C.F.R. §§ 61.342(c)-(e), as required by 40 C.F.R. § 61.342(b).

# Answer to Paragraph No. 119:

Clark denies that it meets the criteria which would subject it to the cited requirements.

# Paragraph No. 120 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.342(b) of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 120:

Denied.

# Paragraph No. 121 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the Benzene Waste Operations NESHAP and the CAA.

# Answer to Paragraph No. 121:

Denied.

# Paragraph No. 122 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

### Answer to Paragraph No. 122:

Denied.

# SECOND CLAIM FOR RELIEF (CAA/NESHAP)

# Failure To Determine Annual Benzene Quantity for Each Waste Stream

# Paragraph No. 123 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 122, above.

# Answer to Paragraph No. 123:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 122 above as if fully set forth herein.

# Paragraph No. 124 Alleges:

Since April 5, 1993, Clark has failed to calculate the annual benzene quantity for each waste stream that has a flow-weighted annual average water content greater than 10 percent.

# Answer to Paragraph No. 124:

Denied.

# Paragraph No. 125 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.355(a)(1) of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 125:

Denied.

# Paragraph No. 126 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the Benzene Waste Operations NESHAP and the CAA.

# Answer to Paragraph No. 126:

Denied.

#### Paragraph No. 127 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 127:

# THIRD CLAIM FOR RELIEF (CAA/NESHAP)

# Failure To Report Annual Benzene Quantity for Each Covered Waste Stream

# Paragraph No. 128 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 127, above.

# Answer to Paragraph No. 128:

Clark realleges its answers to paragraphs I through 45 and 118 through 127 above as if fully set forth herein.

# Paragraph No. 129 Alleges:

Since April 5, 1993, Clark has failed to identify each benzene waste stream having a flow-weighted annual average water content greater than 10 percent in its reports submitted pursuant to 40 C.F.R. § 61.357. As a result, Clark has failed since at least 1993 to report accurately the total annual benzene quantity from the Blue Island Refinery's waste.

# Answer to Paragraph No. 129:

Denied.

# Paragraph No. 130 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357(a) of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 130:

Denied.

# Paragraph No. 131 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the Benzene Waste Operations NESHAP and the CAA.

# Answer to Paragraph No. 131:

Denied.

# Paragraph No. 132 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day of each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 132:

Denied.

# FOURTH CLAIM FOR RELIEF (CAA/NESHAP) Failure To Maintain Records

# Paragraph No. 133 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 132, above.

# Answer to Paragraph No. 133:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 132 above as if fully set forth herein.

# Paragraph No. 134 Alleges:

Since April 5, 1993, Clark has failed to maintain certain records for each waste stream not controlled for benzene emissions in accordance with Subpart FF including, <u>inter alia</u>, all test results, measurements, calculations, and specified other documentation regarding each waste stream and each waste stream's benzene content.

# Answer to Paragraph No. 134:

# Paragraph No. 135 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.356(b)(1) of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 135:

Denied.

# Paragraph No. 136 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the Benzene Waste Operations NESHAP and the CAA.

# Answer to Paragraph No. 136:

Denied.

# Paragraph No. 137 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 137:

Denied.

# FIFTH CLAIM FOR RELIEF (CAA/NESHAP) Late Submission of Annual Reports

#### Paragraph No. 138 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 137, above.

# Answer to Paragraph No. 138:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 137 above as if fully set forth herein.

# Paragraph No. 139 Alleges:

Clark submitted its initial report required by 40 C.F.R. § 61.357 on April 5, 1993. Thereafter, Clark submitted its annual reports required by 40 C.F.R. § 61.357 on June 1, 1994, January 18, 1995, and March 12, 1996.

# Answer to Paragraph No. 139:

Admitted.

# Paragraph No. 140 Alleges:

Clark's 1994 report was submitted 57 days late. Clark's 1996 report was submitted 53 days late.

# Answer to Paragraph No. 140:

Denied.

# Paragraph No. 141 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357 of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 141:

Denied.

# Paragraph No. 142 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Clark is liable for a civil penalty of up to \$25,000 per day for each violation of the CAA.

# Answer to Paragraph No. 142:

Clark refers to the cited statute for its terms and denies any mischaracterization thereof.

# SIXTH CLAIM FOR RELIEF (CAA/NESHAP)

# Failure To Submit Equipment Certification and Performance Reports

# Paragraph No. 143 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 142, above.

# Answer to Paragraph No. 143:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 142 above as if fully set forth herein.

# Paragraph No. 144 Alleges:

Since April 5, 1993, Clark has failed to submit the equipment certification and performance reports required by 40 C.F.R. § 61.357(d)(1), (d)(7) and (d)(8).

# Answer to Paragraph No. 144:

Denied.

# Paragraph No. 145 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357(d) of the Benzene Waste Operations NESHAP and of the CAA.

# Answer to Paragraph No. 145:

Denied.

# Paragraph No. 146 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the Benzene Waste Operations NESHAP and the CAA.

# Answer to Paragraph No. 146:

# Paragraph No. 147 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 147:

Denied.

# SEVENTH CLAIM FOR RELIEF (CAA/NSPS) Exceedance of Emission Limit

# Paragraph No. 148 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 147, above.

# Answer to Paragraph No. 148:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 147 above as if fully set forth herein.

# Paragraph No. 149 Alleges:

From at least February 24, 1995 to at least July 12, 1996, Clark discharged in excess of 250 ppm by volume (dry basis) of SO<sub>2</sub> at zero percent excess air.

# Answer to Paragraph No. 149:

Because this allegation is vague and unspecific Clark is unable to admit or deny it.

# Paragraph No. 150 Alleges:

On numerous occasions from at least October 4, 1994 to at least September 1, 1997, Clark discharged in excess of 10 ppm by volume of hydrogen sulfide from its Claus sulfur recovery plant, calculated as ppm SO<sub>2</sub> by volume (dry basis) at zero percent excess air.

### Answer to Paragraph No. 150:

# Paragraph No. 151 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.104(a)(2) of the NSPS and of the CAA.

# Answer to Paragraph No. 151:

Denied.

# Paragraph No. 152 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the NSPS and the CAA.

# Answer to Paragraph No. 152:

Denied.

# Paragraph No. 153 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 153:

Denied.

# EIGHTH CLAIM FOR RELIEF (CAA/NSPS) Failure to Operate and Maintain Affected Facility

# Paragraph No. 154 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 153, above.

#### Answer to Paragraph No. 154:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 153 above as if fully set forth herein.

# Paragraph No. 155 Alleges:

From at least February 24, 1995 to at least July 12, 1996, Clark operated the Claus sulfur recovery plant while the Stretford unit was not operating, and therefore failed to maintain and operate its Claus sulfur recovery plant, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

# Answer to Paragraph No. 155:

Denied.

# Paragraph No. 156 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.11(d) of the NSPS and of the CAA.

# Answer to Paragraph No. 156:

Denied.

#### Paragraph No. 157 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the NSPS and the CAA.

# Answer to Paragraph No. 157:

Denied.

# Paragraph No. 158 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69.360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 158:

# NINTH CLAIM FOR RELIEF

# (CAA/NSPS)

# Failure to Install and Operate a CEMS for Claus Sulfur Recovery Plant

# Paragraph No. 159 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 158, above.

# Answer to Paragraph No. 159:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 158 above as if fully set forth herein.

# Paragraph No. 160 Alleges:

Since at least 1993, Clark has failed to install, calibrate, maintain, and operate a CEMS for measuring and recording the concentration of reduced sulfur and  $O_2$  emissions into the atmosphere from each Claus sulfur recovery plant effluent point.

# Answer to Paragraph No. 160:

Clark states that it has not installed, calibrated, maintained, and operated the CEMS referred to in this paragraph, but Clark denies that it had or has an obligation to do so.

# Paragraph No. 161 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. §§ 60.105(a)(6) and 60.13(g) of the NSPS and of the CAA.

### Answer to Paragraph No. 161:

Denied.

# Paragraph No. 162 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the NSPS and the CAA.

#### Answer to Paragraph No. 162:

# Paragraph No. 163 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 163:

Denied.

# TENTH CLAIM FOR RELIEF (CAA/NSPS) Failure to Submit Excess Emissions Reports

# Paragraph No. 164 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 163, above.

# Answer to Paragraph No. 164:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 163 above as if fully set forth herein.

### Paragraph No. 165 Alleges:

Since at least 1993, Clark has failed to submit to U.S. EPA excess emission and monitoring system performance reports for its Claus sulfur recovery plant that identify periods of emissions in excess of certain emissions requirements as specified in 40 C.F.R. §§ 60.7(c) and 60.105(a)(4).

#### Answer to Paragraph No. 165:

Clark states that it has not submitted the referenced reports, but Clark denies that it had or has an obligation to submit such reports.

#### Paragraph No. 166 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.7(c) of the NSPS and of the CAA.

# Answer to Paragraph No. 166:

Denied.

# Paragraph No. 167 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the NSPS and the CAA.

# Answer to Paragraph No. 167:

Denied.

#### Paragraph No. 168 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 168

Denied.

# ELEVENTH CLAIM FOR RELIEF (CAA/NSPS) Failure to Conduct Emissions Test

# Paragraph No. 169 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 168, above.

# Answer to Paragraph No. 169:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 168 above as if fully set forth herein.

# Paragraph No. 170 Alleges:

Since at least 1993, Clark has failed to conduct a performance test as required in 40 C.F.R. § 60.8(a).

# Answer to Paragraph No. 170:

Clark states that it has not conducted the referenced performance test, but Clark denies that it had or has an obligation to perform such test.

# Paragraph No. 171 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.8(a) of the NSPS and of the CAA.

# Answer to Paragraph No. 171:

Denied.

# Paragraph No. 172 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the NSPS and the CAA.

# Answer to Paragraph No. 172:

Denied.

#### Paragraph No. 173 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

### Answer to Paragraph No. 173:

Denied.

# TWELFTH CLAIM FOR RELIEF (CAA/SIP) <u>Components Not Identified</u>

#### Paragraph No. 174 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 173, above.

# Answer to Paragraph No. 174:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 173 above as if fully set forth herein.

# Paragraph No. 175 Alleges:

From at least September 19 to 22, 1995, Clark failed to identify each component of the Blue Island Refinery that is subject to leak monitoring. Specifically, on an inspection conducted from September 19 to 22, 1995, Clark failed to identify 928 components that were subject to leak monitoring.

# Answer to Paragraph No. 175:

The allegations of the first sentence are too vague and unspecific for Clark to admit or deny, them, but to the extent Clark understands them, they are denied. The allegations of the second sentence are too vague and unspecific for Clark to admit or deny them, but to the extent Clark understands them, Clark lacks sufficient information to admit or deny them.

# Paragraph No. 176 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.445(d), the Illinois SIP, and the CAA.

#### Answer to Paragraph No. 176:

Denied.

# Paragraph No. 177 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Clark is liable for a civil penalty of up to \$25,000 per day for each violation of the CAA.

# Answer to Paragraph No. 177:

# THIRTEENTH CLAIM FOR RELIEF (CAA/SIP)

# Failure To Identify Components in Monitoring Program

# Paragraph No. 178 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 177, above.

# Answer to Paragraph No. 178:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 177 above as if fully set forth herein.

# Paragraph No. 179 Alleges:

From September 1994 to at least October 1995, Clark did not identify all refinery components and the period in which each were to be monitored in its monitoring program.

# Answer to Paragraph No. 179:

The allegations of the paragraph are too vague and unspecific for Clark to admit or deny them, but to the extent Clark understands them, they are denied.

# Paragraph No. 180 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.446(a), the Illinois SIP, and the CAA.

### Answer to Paragraph No. 180:

Denied.

# Paragraph No. 181 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Clark is liable for a civil penalty of up to \$25,000 per day for each violation of the CAA.

# Answer to Paragraph No. 181:

# FOURTEENTH CLAIM FOR RELIEF (CAA/SIP) Incorrect Calibration Gas Setting

# Paragraph No. 182 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 181, above.

# Answer to Paragraph No. 182:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 181 above as if fully set forth herein.

# Paragraph No. 183 Alleges:

On numerous occasions prior to September 18, 1995, Clark set calibration gases at zero air and a mixture of n-hexane and air at a concentration of 500 ppm n-hexane.

# Answer to Paragraph No. 183:

Clark admits that on more than one occasion prior to September 18, 1995, it set calibration gases at zero air and a mixture of n-hexane and air at a concentration of 500 ppm n-hexane, but because this allegation is vague and unspecific, Clark is unable to admit it or deny it.

# Paragraph No. 184 Alleges:

The acts or omissions referred to in the preceding paragraph constitute a violation of 35 I.A.C. § 218.447(a), the Illinois SIP, and the CAA.

# Answer to Paragraph No. 184:

Because the allegations of paragraph 183 are vague and unspecific, Clark is unable to admit or deny the allegations of this paragraph.

# Paragraph No. 185 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Clark is liable for a civil penalty of up to \$25,000 per day for each violation for its violation of the CAA.

# Answer to Paragraph No. 185:

Denied.

# FIFTEENTH CLAIM FOR RELIEF (CAA/SIP) Failure To Test Quarterly

# Paragraph No. 186 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 185, above.

#### Answer to Paragraph No. 186:

Clark realleges its answers to paragraphs 1 through 45 and 118 through 185 above as if fully set forth herein.

### Paragraph No. 187 Alleges:

Since at least 1995, Clark has failed to test once each calendar quarter, by the method referenced in 35 I.A.C. § 218.105(g), numerous pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals.

# Answer to Paragraph No. 187:

Clark admits that in certain calendar quarters it did not use the referenced method to test certain components, but because this allegation is vague and unspecific, Clark is unable to admit it or deny it.

#### Paragraph No. 188 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.447(a)(2), the Illinois SIP, and the CAA.

# Answer to Paragraph No. 188:

Because the allegation of paragraph 187 are vague and unspecific, Clark is unable to admit or deny the allegations of this paragraph.

# Paragraph No. 189 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate 35 I.A.C. § 218.447(a)(2), the Illinois SIP, and the CAA.

# Answer to Paragraph No. 189:

Denied.

# Paragraph No. 190 Alleges:

Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 190:

Denied.

# SIXTEENTH CLAIM FOR RELIEF (CWA) <u>Discharge of Pollutants Without an NPDES Permit</u>

# Paragraph No. 191 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 46 through 94, above.

# Answer to Paragraph No. 191:

Clark realleges its answers to paragraphs 1 through 7 and 46 through 94 above as if fully set forth herein.

# Paragraph No. 192 Alleges:

On numerous occasions since at least 1993, Clark has discharged pollutants into the waters of the United States without an NPDES permit issued by U.S. EPA or the State of Illinois.

# Answer to Paragraph No. 192:

The allegations of the paragraph are too vague and unspecific for Clark to admit or deny them, but to the extent Clark understands them, Clark admits that it made discharges into waters of the United States on occasions since 1993, and Clark denies the remaining allegations of the paragraph.

# Paragraph No. 193 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of the CWA.

# Answer to Paragraph No. 193:

Denied.

# Paragraph No. 194 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the CWA.

# Answer to Paragraph No. 194:

Denied.

# Paragraph No. 195 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 195:

# SEVENTEENTH CLAIM FOR RELIEF (CWA) Exceedance of Effluent Limits

# Paragraph No. 196 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 195, above.

# Answer to Paragraph No. 196:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 195 above as if fully set forth herein.

# Paragraph No. 197 Alleges:

Since at least January 18, 1994, Clark has caused or allowed "pollution" or the discharge of "sewage," "industrial waste" or "other wastes" from the Facility into a "sewerage system" under the jurisdiction of the MWRDGC, within the meaning of Article II and Article III, Section 1 of the MWRDGC Ordinance.

# Answer to Paragraph No. 197:

Admitted.

# Paragraph No. 198 Alleges:

On numerous occasions since at least January 18, 1994, discharges from Clark's Facility to a sewerage system under the jurisdiction of the MWRDGC exceeded the pollutant concentration limits set forth in Section 1 of Appendix B to the MWRDGC Ordinance and the federal categorical pretreatment standards set forth in 40 C.F.R. § 419.25, both of which are set forth in Discharge Authorization ("DA") 13468-1, including criteria or standards applicable to discharges of fats, oils and greases, ammonia, and mercury. In addition, on numerous occasions since at least January 27, 1994, discharges from Clark's Facility to a sewerage system under the jurisdiction of the MWRDGC did not conform to criteria or effluent quality standards in Appendix B of the MWRDGC Ordinance governing the acidity or alkalinity ("pH") of discharges.

# Answer to Paragraph No. 198:

Clark admits that on more than one occasion on or after January 18, 1994, discharges from its facility to a sewerage system under the jurisdiction of the MWRDGC exceeded the

referenced pollutant concentration limits and the criteria governing pH, but because this allegation is vague and unspecific Clark is unable to admit or deny it.

# Paragraph No. 199 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of DA 13468-1, Article III, Section 1 of the MWRDGC Ordinance, the limits in Appendix B to the Ordinance, 40 C.F.R. §§ 403.5(d) and 419.25, and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

# Answer to Paragraph No. 199:

Because the allegations of paragraph 198 are vague and unspecific, Clark is unable to admit or deny the allegations of this paragraph.

# Paragraph No. 200 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate DA 13468-1, Article III, Section 1 of the MWRDGC Ordinance, the limits in Appendix B to the Ordinance, 40 C.F.R. §§ 403.5(d) and 419.25, and the CWA.

# Answer to Paragraph No. 200:

Denied.

#### Paragraph No. 201 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 201:

# EIGHTEENTH CLAIM FOR RELIEF (CWA)

# Failure to Maintain Pretreatment Equipment

# Paragraph No. 202 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 201, above.

# Answer to Paragraph No. 202:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 201 above as if fully set forth herein.

# Paragraph No. 203 Alleges:

Since at least 1994, Clark has failed to install and/or maintain pretreatment facilities, including its dissolved air floatation ("DAF") skimmer and aerator, adequately to prevent violations of pollutant concentration limits.

# Answer to Paragraph No. 203:

Denied.

# Paragraph No. 204 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of Section C, Item 4 of DA 13468-1 and the CWA.

# Answer to Paragraph No. 204:

Denied.

# Paragraph No. 205 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate Section C, Item 4 of DA 13468-1 and the CWA.

# Answer to Paragraph No. 205:

Denied.

# Paragraph No. 206 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 206:

Denied.

# NINETEENTH CLAIM FOR RELIEF (CWA) Unpermitted Bypass of Wastewater Treatment Facility

# Paragraph No. 207 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 206, above.

# Answer to Paragraph No. 207:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 206 above as if fully set forth herein.

# Paragraph No. 208 Alleges:

The wastewater flow system of Clark's treatment facility is designed such that a portion of the Blue Island Refinery's process wastewater can be diverted from the Facility's wastewater treatment system during high flow conditions, such as rain events.

# Answer to Paragraph No. 208:

Because the referenced wastewater flow system was installed by a predecessor of Clark, Clark is unable to admit or deny the allegation regarding what the system was designed to do

# Paragraph No. 209 Alleges:

On numerous occasions since at least 1993, Clark has intentionally diverted, or bypassed, untreated process wastewater away from its wastewater treatment system to the MWRDGC.

# Answer to Paragraph No. 209:

Clark admits that it has bypassed untreated process wastewater on more than one occasion, but because this allegation is vague and unspecific Clark is unable to admit or deny it.

# Paragraph No. 210 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.17(d) and the CWA.

# Answer to Paragraph No. 210:

Because the allegations of paragraph 209 are vague and unspecific, Clark is unable to admit or deny the allegation of this paragraph.

# Paragraph No. 211 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate 40 C.F.R. § 403.17(d) and the CWA.

# Answer to Paragraph No. 211:

Denied.

# Paragraph No. 212 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 212:

# TWENTIETH CLAIM FOR RELIEF (CWA)

# Failure to Provide Notice of Bypass of Wastewater Treatment Facility

# Paragraph No. 213 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 212, above.

# Answer to Paragraph No. 213:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 212 above as if fully set forth herein.

# Paragraph No. 214 Alleges:

On numerous occasions since at least 1993, Clark has diverted untreated process wastewater from its wastewater treatment system to MWRDGC without providing notice of the bypass to MWRDGC.

#### Answer to Paragraph No. 214:

Clark admits that on more than one occasion it has diverted untreated process wastewater from its wastewater treatment system to the MWRDGC without providing notice, but because this allegation is vague and unspecific Clark is unable to admit or deny it.

# Paragraph No. 215 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.17(c) and the CWA.

# Answer to Paragraph No. 215:

Because the allegation of paragraph 214 are vague and unspecific, Clark is unable to admit or deny the allegation of this paragraph.

#### Paragraph No. 216 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate 40 C.F.R. § 403.17(c) and the CWA.

# Answer to Paragraph No. 216:

Denied.

# Paragraph No. 217 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 217:

Denied.

6.5

# TWENTY-FIRST CLAIM FOR RELIEF (CWA)

# Standards Relating to Fire, Explosion or Worker Health and Safety

# Paragraph No. 218 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 217, above.

# Answer to Paragraph No. 218:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191

through 217 above as if fully set forth herein.

# Paragraph No. 219 Alleges:

On numerous occasions since 1993, Clark has introduced into a POTW pollutants that create a fire or explosion hazard in the POTW, and/or pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

#### Answer to Paragraph No. 219:

# Paragraph No. 220 Alleges:

The acts referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.5(b) and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

# Answer to Paragraph No. 220:

Denied.

# Paragraph No. 221 Alleges:

On numerous occasions since at least 1993, discharges from Clark's Facility to a sewerage system under the jurisdiction of the MWRDGC contained liquids, solids and/or gases that by reason of their nature and quantity, were sufficient to cause fire or explosion or be injurious in any other way to the sewerage system or to the operation of water reclamation facilities, or such discharges contained noxious or malodorous liquids, gases or substances sufficient to create a hazard to life, cause injury or prevent entry into the sewer for maintenance or repair.

#### Answer to Paragraph No. 221:

Denied.

# Paragraph No. 222 Alleges:

The acts referred to in the preceding paragraph constitute violations of Appendix B, Section 2 of the MWRDGC Ordinance and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

#### Answer to Paragraph No. 222:

Denied.

#### Paragraph No. 223 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the CWA.

#### Answer to Paragraph No. 223:

Denied.

#### Paragraph No. 224 Alleges:

Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to

January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 224:

Denied.

# TWENTY-SECOND CLAIM FOR RELIEF (CWA) Discharge of Oil into Navigable Waters of the United States

# Paragraph No. 225 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 224, above.

# Answer to Paragraph No. 225:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 224 above as if fully set forth herein.

# Paragraph No. 226 Alleges:

On numerous occasions since at least 1993, Clark has discharged oil into the navigable waters in such quantities that violate applicable water quality standards or cause a film or sheen upon or discoloration of the water on adjoining shorelines.

# Answer to Paragraph No. 226:

Clark admits that on more than one occasion it has discharged oil into navigable water that caused a sheen upon the water, but because this allegation is vague and unspecific Clark is unable to admit or deny it.

# Paragraph No. 227 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 110.3 and the CWA.

# Answer to Paragraph No. 227:

Because the allegation of paragraph 226 are vague and unspecific, Clark is unable to admit or deny the allegation of this paragraph.

# Paragraph No. 228 Alleges:

As a result of Clark's violations of 40 C.F.R. § 110.3 and the CWA, Clark is liable for (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 228:

Denied.

# TWENTY-THIRD CLAIM FOR RELIEF (CWA)

# Failure to Submit Spill Notifications to the Regional Administrator

#### Paragraph No. 229 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 228, above.

# Answer to Paragraph No. 229:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 228 above as if fully set forth herein.

# Paragraph No. 230 Alleges:

On numerous occasions since at least May 4, 1994, Clark has failed to provide spill notifications containing the information listed in 40 C.F.R. § 112.4(a)(l)-(11) to the Regional Administrator.

#### Answer to Paragraph No. 230:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

# Paragraph No. 231 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 112.4 and the CWA.

#### Answer to Paragraph No. 231:

Denied.

# Paragraph No. 232 Alleges:

As a result of Clark's violations of 40 C.F.R. § 112.4 and the CWA, Clark is liable for (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

# Answer to Paragraph No. 232:

Denied.

# TWENTY-FOURTH CLAIM FOR RELIEF (CWA) Failure to Maintain a Copy of the SPCC Plan at the Facility

# Paragraph No. 233 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 232, above.

# Answer to Paragraph No. 233:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191

through 233 above as if fully set forth herein.

# Paragraph No. 234 Alleges:

On August 11, 1994, Clark did not maintain a complete copy of its SPCC Plan at the Blue Island Refinery, and the SPCC Plan was not available for on-site review during normal working hours.

# Answer to Paragraph No. 234:

#### Paragraph No. 235 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.3(e) and the CWA.

#### Answer to Paragraph No. 235:

Denied.

#### Paragraph No. 236 Alleges:

As a result of Clark's violations of 40 C.F.R. § 112.3(e) and the CWA, Clark is liable for a civil penalty of up to \$25,000 per day for each violation.

#### Answer to Paragraph No. 236:

Denied.

# TWENTY-FIFTH CLAIM FOR RELIEF (CWA) Failure to Implement the SPCC Plan

#### Paragraph No. 237 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 236, above.

#### Answer to Paragraph No. 237:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 236 above as if fully set forth herein.

#### Paragraph No. 238 Alleges:

Clark amended its SPCC Plan on or around September 19, 1994.

#### Answer to Paragraph No. 238:

Admitted.

#### Paragraph No. 239 Alleges:

Clark's September 19, 1994 SPCC Plan provided that "Clark will investigate secondary containment modifications to provide secondary containment for each tank sufficient to contain the capacity of the largest tank in the containment area plus precipitation. . . . Modifications will be implemented to provide each tank with containment adequate to contain the entire capacity of the tank plus rainfall, or contingency plans will be developed for tanks with containment areas that cannot be modified appropriately." SPCC p. 2-22. Clark's September 19, 1994 SPCC Plan also provided, among other things, that "[p]ipe supports for aboveground installations should be designed to minimize abrasion and corrosion and allow pipe expansion and contraction." SPCC p. 2-34.

#### Answer to Paragraph No. 239:

Clark admits that the SPCC plan includes the quoted language and Clark refers to the full document for its terms.

#### Paragraph No. 240 Alleges:

Clark failed to implement the September 19, 1994 SPCC Plan requirements set forth in the previous paragraph within six months of the date the SPCC Plan was amended.

#### Answer to Paragraph No. 240:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny them, but to the extent that Clark understands them, they are denied.

#### Paragraph No. 241 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.5 and the CWA.

#### Answer to Paragraph No. 241:

Denied.

#### Paragraph No. 242 Alleges:

As a result of Clark's violations of 40 C.F.R. § 112.5 and the CWA, Clark is liable for (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 242:

Denied.

### TWENTY-SIXTH CLAIM FOR RELIEF (CWA) Failure to Address SPCC Plan Guidelines

#### Paragraph No. 243 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 242, above.

#### Answer to Paragraph No. 243:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 242 above as if fully set forth herein.

#### Paragraph No. 244 Alleges:

Since at least September 19, 1994, Clark's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(ii), specifying that all diked areas should be sufficiently impervious to contain spilled oil.

#### Answer to Paragraph No. 244:

Denied.

#### Paragraph No. 245 Alleges:

Since at least September 19, 1994, Clark's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(x), specifying that visible oil leaks which result in a loss of oil from tank seams, gaskets, rivets, and bolts sufficiently large to cause the accumulation of oil in diked areas should be promptly corrected.

#### Answer to Paragraph No. 245:

Denied.

#### Paragraph No. 246 Alleges:

Since at least September 19, 1994, Clark's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(xi), specifying that mobile or portable oil storage tanks should be positioned or located so as to prevent spilled oil from reaching navigable waters and that a secondary means of containment should be furnished for the largest single compartment or tank.

#### Answer to Paragraph No. 246:

Denied.

#### Paragraph No. 247 Alleges:

Since at least September 19, 1994, Clark's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(3)(v), specifying that vehicular traffic granted entry into the Facility should be warned verbally or by appropriate signs to be sure that the vehicles, because of their size, do not endanger above-ground piping.

#### Answer to Paragraph No. 247:

Denied.

#### Paragraph No. 248 Alleges:

The acts or omissions referred to in the preceding four paragraphs constitute violations of the 40 C.F.R. § 112.7(e) and the CWA.

#### Answer to Paragraph No. 248:

Denied.

#### Paragraph No. 249 Alleges:

As a result of Clark's violations of 40 C.F.R. § 112.7(e) and the CWA, Clark is liable for (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 249:

Denied.

## TWENTY-SEVENTH CLAIM FOR RELIEF (CWA) Failure to Review the SPCC Plan

#### Paragraph No. 250 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 249, above.

#### Answer to Paragraph No. 250:

Clark realleges its answers to paragraphs 1 through 7, 46 through 94, and 191 through 249 above as if fully set forth herein.

#### Paragraph No. 251 Alleges:

Clark completed a review of the SPCC Plan for the Blue Island Refinery on or around August 20, 1990. Clark completed the next review of the SPCC Plan for the Blue Island Refinery on or around September 19, 1994. Clark completed a further of the SPCC Plan for the Blue Island Refinery on or around July 1, 1998.

#### Answer to Paragraph No. 251:

Clark denies that the most recent revision of the SPCC Plan was completed on July 1, 1998, and states that such revision was completed on July 9, 1998. Clark admits the remaining allegations of this paragraph.

#### Paragraph No. 252 Alleges:

For at least the periods from August 20, 1993 to September 18, 1994 and from September 20, 1997 to June 30, 1998, Clark failed to review the SPCC Plan for the Facility.

#### Answer to Paragraph No. 252:

Denied.

#### Paragraph No. 253 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.5(b) and the CWA.

#### Answer to Paragraph No. 253:

Denied.

#### Paragraph No. 254 Alleges:

As a result of Clark's violations of 40 C.F.R. § 112.5(b) and the CWA, Clark is liable for (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 254:

Denied.

## 7WENTY-EIGHTH CLAIM FOR RELIEF (RCRA) Failure to Keep Containers Closed

#### Paragraph No. 255 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 95 through 112, above.

#### Answer to Paragraph No. 255:

Clark realleges its answers to paragraphs 1 through 7 and 95 through 112 above as if fully set forth herein.

#### Paragraph No. 256 Alleges:

On at least March 20, 1997, Clark failed to keep a container holding hazardous waste at the Facility closed when waste was not being added or removed.

#### Answer to Paragraph No. 256:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 257 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. §§ 722.134(a)(1) and 725.273 of the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 257:

Denied.

#### Paragraph No. 258 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Clark is liable for a civil penalty of up to \$25,000 per day for each violation.

#### Answer to Paragraph No. 258:

Denied.

# TWENTY-NINTH CLAIM FOR RELIEF (RCRA) Failure to Date and Mark Hazardous Wast Containers

#### Paragraph No. 259 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 258, above.

#### Answer to Paragraph No. 259:

Clark realleges its answers to paragraphs 1 through 7, 95 through 112, and 255 through 259 above as if fully set forth herein.

#### Paragraph No. 260 Alleges:

On at least March 3, 1997, Clark accumulated hazardous waste on-site in a container without clearly marking the container with the date upon which the period of accumulation began.

#### Answer to Paragraph No. 260:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 261 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 722.134(a)(2) of the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 261:

Denied.

#### Paragraph No. 262 Alleges:

On at least March 3, 1997, Clark accumulated hazardous waste on-site in a container without clearly labeling or marking the container with the words, "Hazardous Waste."

#### Answer to Paragraph No. 262:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 263 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 722.134(a)(3) of the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 263:

Denied.

#### Paragraph No. 264 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Clark is liable for a civil penalty of up to \$25,000 per day for each violation.

#### Answer to Paragraph No. 264:

Denied.

# THIRTIETH CLAIM FOR RELIEF (RCRA) Failure to Complete Land Disposal Restriction Notifications

#### Paragraph No. 265 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 264, above.

#### Answer to Paragraph No. 265:

Clark realleges its answers to paragraphs 1 through 7, 95 through 112, and 255 through 264 above as if fully set forth herein.

#### Paragraph No. 266 Alleges:

On numerous occasions since at least 1994, Clark, when shipping waste off-site that is restricted from land disposal under 35 I.A.C. Part 728, has failed to include all of the information required by 35 I.A.C. § 728.107 in land disposal restriction notifications.

#### Answer to Paragraph No. 266:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny them.

#### Paragraph No. 267 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 728.107 of the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 267:

Denied.

#### Paragraph No. 268 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 268:

Denied.

#### Paragraph No. 269 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 269:

Denied.

### THIRTY-FIRST CLAIM FOR RELIEF (RCRA) Failure to Minimize the Threat of Release

#### Paragraph No. 270 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 269, above.

#### Answer to Paragraph No. 270:

Clark realleges its answers to paragraphs 1 through 7, 95 through 112, and 255

through 269 above as if fully set forth herein.

#### Paragraph No. 271 Alleges:

Since at least March 3, 1997, Clark has not maintained and operated the overflow pit, the dike of tanks 51 and 59, the dike of tank 28, and the crude unit at the Blue Island Refinery to minimize the possibility of any release of hazardous waste or hazardous waste constituents to the soil that could threaten human health or the environment.

#### Answer to Paragraph No. 271:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny. To the extent that Clark understands the allegations of this paragraph, Clark denies them.

#### Paragraph No. 272 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 725.131, as referenced by 35 I.A.C. § 722.134(a)(4), of the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 272:

Denied.

#### Paragraph No. 273 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 273:

Denied.

#### Paragraph No. 274 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after

#### Answer to Paragraph No. 274:

Denied.

### THIRTY-SECOND CLAIM FOR RELIEF - (RCRA)

### Failure to Determine the Average VO Concentration of Hazardous Waste

#### Paragraph No. 275 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 274, above.

#### Answer to Paragraph No. 275:

Clark realleges its answers to paragraphs 1 through 7, 95 through 112, and 255 through 274 above as if fully set forth herein.

#### Paragraph No. 276 Alleges:

Since at least December 6, 1996, Clark, has failed to determine the average volatile organic ("VO") concentration of certain hazardous wastes at the point of waste origination using either direct measurement or by knowledge.

#### Answer to Paragraph No. 276:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny. To the extent that Clark understands the allegations of this paragraph, Clark denies them.

#### Paragraph No. 277 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 265.1084(a)(2).

#### Answer to Paragraph No. 277:

Denied.

#### Paragraph No. 278 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate the requirements of RCRA.

#### Answer to Paragraph No. 278:

Denied.

#### Paragraph No. 279 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 279:

Denied.

### THIRTY-THIRD CLAIM FOR RELIEF (RCRA)

#### Treatment, Storage or Disposal of Hazardous Waste Without a Permit

#### Paragraph No. 280 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 279, above.

#### Answer to Paragraph No. 280:

Clark realleges its answers to paragraphs 1 through 7, 95 through 112, and 255 through 279 above as if fully set forth herein.

#### Paragraph No. 281 Alleges:

On several occasions since at least 1993, Clark has discharged hazardous waste to the diked areas of tank 55 and tank 28 without a permit and without interim status, and has otherwise treated, stored or disposed of hazardous wastes without a permit and without interim status.

#### Answer to Paragraph No. 281:

The allegations of this paragraph are too vague and unspecific for Clark to admit or deny. To the extent that Clark understand the allegations of this paragraph, Clark denies them.

#### Paragraph No. 282 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 703.121(a) and Section 3005(e) of RCRA, 42 U.S.C. § 6925(e).

#### Answer to Paragraph No. 282:

Denied.

#### Paragraph No. 283 Alleges:

Unless restrained by an Order of the Court, Clark may continue to violate RCRA and the federally approved hazardous waste management program for the State of Illinois.

#### Answer to Paragraph No. 283:

Denied.

#### Paragraph No. 284 Alleges:

Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Clark is liable for injunctive relief and (1) a civil penalty of up to \$25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to \$27,500 per day for each violation occurring on or after January 30, 1997.

#### Answer to Paragraph No. 284:

Denied.

# THIRTY-FORTH CLAIM FOR RELIEF (CERCLA) Failure to Notify National Response Center

#### Paragraph No. 285 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 113 through 114, above.

#### Answer to Paragraph No. 285:

Clark realleges its answers to paragraphs 1 through 7 and 113 through 114 above as if fully set forth herein.

#### Paragraph No. 286 Alleges:

On several occasions since at least 1994, Clark has failed to immediately notify the National Response Center of releases from its Facility of hazardous substances in an amount equal to or greater than the reportable quantity for those substances.

#### Answer to Paragraph No. 286:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 287 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of Section 103(a) of CERCLA, 42 U.S.C. § 9603.

#### Answer to Paragraph No. 287:

Denied.

#### Paragraph No. 288 Alleges:

Pursuant to Section 109(c)(1) of CERCLA, 42 U.S.C. § 9609(c)(1), Clark is liable for civil penalties in an amount not to exceed \$25,000 per day for each day the violation continues, and in an amount not to exceed \$75,000 per day for each day that any second or subsequent violation continues.

#### Answer to Paragraph No. 288:

Denied.

## THIRTY-FIFTH CLAIM FOR RELIEF (EPCRA) Failure to Notify State and Local Authorities

#### Paragraph No. 289 Alleges:

Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 115 through 117, above.

#### Answer to Paragraph No. 289:

Clark realleges its answers to paragraphs 1 through 7 and 115 through 117 above as if fully set forth herein.

#### Paragraph No. 290 Alleges:

On several occasions since at least 1994, Clark has failed to notify the SERC immediately of a release of a hazardous or extremely hazardous substance as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

#### Answer to Paragraph No. 290:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 291 Alleges:

On several occasions since at least 1994, Clark has failed to notify the LEPC immediately of a release of a hazardous or extremely hazardous substance as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

#### Answer to Paragraph No. 291:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 292 Alleges:

On several occasions since at least 1994, Clark has failed to provide a written follow-up emergency notice to the SERC as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), in accordance with the requirements of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

#### Answer to Paragraph No. 292:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 293 Alleges:

On several occasions since at least 1994, Clark has failed to provide a written follow-up emergency notice to the LEPC as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), in accordance with the requirements of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

#### Answer to Paragraph No. 293:

The allegations of this paragraph are too vague and unspecific to permit Clark to admit or deny them.

#### Paragraph No. 294 Alleges:

The acts or omissions referred to in the preceding paragraph constitute violations of Section 304 of EPCRA, 42 U.S.C. § 110104.

#### Answer to Paragraph No. 294:

Denied.

#### Paragraph No. 295 Alleges:

Pursuant to Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), Clark is liable for civil penalties in an amount not to exceed \$25,000 per day for each day the violation continues, and in an amount not to exceed \$75,000 per day for each day that any second or subsequent violation continues.

#### Answer to Paragraph No. 295:

Denied.

#### AFFIRMATIVE DEFENSES

Clark states the following defenses without assuming the burden of proof that would otherwise rest on plaintiff with respect to any such defense.

1. Each claim alleged herein is barred to the extent it reaches back more than the applicable limitations period.

WHEREFORE, Defendant Clark prays that this Court enter judgment in its favor, dismiss with prejudice the claims set forth in the Complaint, and award such other relief as the Court deems just and proper.

Dated: January 15, 1998

CLARK REFINING & MARKETING, INC.

One of Its Attorneys

John C. Berghoff, Jr. Russell R. Eggert Michael P. Rissman MAYER, BROWN & PLATT 190 South LaSalle Street Chicago, Illinois 60603 (312) 782-0600

#### CERTIFICATE OF SERVICE

The undersigned attorney certifies that he caused the foregoing Clark Refining and Marketing, Inc.'s Answer to be served on January 15, 1999, via first class mail, postage prepaid, to:

Linda Wawzenski Assistant United States Attorney 219 South Dearborn Street Chicago, IL 60604

James D. Freeman
Frances M. Zizila
Trial Attorneys
Environmental Enforcement Section
U.S. Department of Justice
999 Eighteenth Street
Suite 945 - North Tower
Denver, CO 80202

Rodger Field Roger Grimes Leslie Kirby Associate Regional Counsels United States Environmental Protection Agency 77 West Jackson Boulevard Chicago, IL 60604

Ellen O'Laughlin Assistant Attorney General 100 West Randolph Street, 11th floor Chicago, IL 60601

Michael P. Rissman

			•
			и
			4 1
			<u> </u>
	,		
•			
		•	
	•		
	4.		
			•

Mary A. Gade, Director

2200 Churchill Road, Springfield, IL 62794-9276

708/338-7900

CERTIFIED # 0 36 05/388

May 20,1994

Clark Oil & Refining Attn: Ron Snook, Environmental Manager 13Tst and Kedzie Blue Island, Illinois 60406

Re: PRE-ENFORCEMENT CONFERENCE LETTER
0310240005 -- Cook County
Clark Oil & Refining
ILD005109822
Compliance File

Dear Mr. Snook:

By copy of this letter the Illinois Environmental Protection Agency hereby informs you of apparent violations of the Illinois Environmental Protection Act and/or rules and regulations adopted thereunder. These apparent violations are based on a April 13, 1994 inspection and are set forth in Attachment A of this letter.

As a result of these apparent violation(s), it is our intent to refer this matter to the Illinois Environmental Protection Agency's ("Agency") legal staff for the preparation of a formal enforcement case. The Agency's legal staff will, in turn, refer this matter to the Office of the Attorney General or the State's Attorney's Office for the filing of a formal complaint.

Prior to taking such action, however, you are requested to attend a Pre-Enforcement Conference to be held at the Maywood Regional Office, 1701 South First Avenue, Suite 600, Maywood, Illinois. The purpose of this conference will be:

- to discuss the validity of the apparent violations identified on the inspection report and
- 2. to arrive at a program to eliminate existing and/or future violations.

You should, therefore, bring such personnel and records to the conference which will enable a complete discussion of the above items. We have scheduled the conference for June 1, 1994 at 11:00 a.m. If this arrangement is inconvenient, you may arrange for an alternative date and time.

In addition, please be advised that this letter constitutes the notice required by section 31(d) of the Illinois Environmental Protection Act prior to the filing of a formal complaint. The cited section of the Illinois Environmental Protection

general control of the control of th

Agency to inform you of the charges which are to be alleged and offer you the opportunity to meet with appropriate officials within thirty (30) days of this notice date in an effort to resolve such conflict which could lest to the filling of formal action.

If either the above mentioned conference date or time is inconvenient, or if you have any questions regarding this letter, please contact Aaron Taylor at 708/338-7900.

Sincerely,

Mlan D. Savage, Jr., Manager

Field Operations Section Division of Land Pollution Control

Bureau of Land

GDS:AT:DV:ct,695w,86-87

Attachments

\_(

#### ATTACHMENT A

- Pursuant to Section 21(p)(1) of the Illinois Environmental Protection Act, Ill. Rev. Stat., Ch. 111-1/2, Sec. 1001 et seq. no person shall cause or allow litter.
  - You are in apparent violation of Section 21(p)(1) of the Act for the following reason: Your vacuum truck emptied a special waste on the ground.
- 2. Pursuant to Section 21(a) of the Illinois Environmental Protection Act, Ill. Rev. Stat., Ch. 111 1/2, Sec. 1001 et seq. no person shall cause or allow the open dumping of any waste. You are in apparent violation of Section 21(a) of the Act for the following reason(s): Your vacuum truck emptied a special waste on the ground.
- 3. Pursuant to Section 21(d) of the Illinois Environmental Protection Act, Ill. Rev. Stat., Ch. 111 1/2, Sec. 1001 et seq. no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation:
  - Without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; provided, however, that no permit shall be required for any person conducting a waste-storage, waste-treatment, or waste-disposal operations for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generated; or.
  - In violation of any regulations or standards adopted by the Board under this Act.

This subsection (d) shall not apply to hazardous waste.

You are in apparent violation of Section 21(d) of the Act for the following reason(s): Your vacuum truck emptied a special waste on the ground and your facility is not permitted for this activity. You are disposing of a special waste without an Agency permit.

DV:ct,695w,89

A Section (1) The contract of the second sec

Mary A. Gade, Director

2200 Churchill Road, Springfield, IL 62794-9276

217/782-6761

February 3, 1994

Clark Oil and Refining Attn: Stafford Jacques, Asst. Director of Environmental Control 131st and Kedzie Blue Island, Illinois 60406

Re: 0310249005 -- Cook County Clark Oil and Refining ILD005109822 Compliance File

Dear Mr. Jacques:

On December 6, 1993 your facility was inspected by Aaron Taylor of the Illinois Environmental Protection Agency. The purpose of this inspection was to determine your facility's compliance with 35 Illinois Administrative Code, Part 722, Subparts A through E; Part 725, Subparts A through E, I, J, and O; and Part 728, Subparts A through E. At the time of the inspection, no apparent violations addressed as part of the inspection were observed.

For your information, a copy of the inspection report is enclosed. If you have any questions regarding the above matter, please contact Aaron Taylor at 708/531-5900.

Sincerely

Brian S. White, Manager Compliance Unit Planning and Reporting Section Bureau of Land

BSW:AT:dv

bcc: Division File
Maywood Region
Aaron Taylor
Deanne Virgin

#### **CLARK OIL & REFINING CORPORATION**



131ST AND KEDZIE AVENUE POST OFFICE BOX 297 BLUE ISLAND, ILLINOIS 60406-0297 OFFICE; (708) 385-5000 FAX: (708) 385-0781

January 6, 1993 4

Mr. Bur Filson Manager, Northern Sub Unit Illinois Environmental Protection Agency 2200 Churchill Road Springfield, IL 62794



Re:

IEMA #933266

Clark Refining & Marketing Inc.

Blue Island, IL 60406

0310240005 Ceok Conviy CLANK OIL LUST

Dear Mr. Filson:

This letter is in reference to a telephone conversation with Mr. Craig Steinheimer from Illinois EPA LUST Division, on Tuesday, January 4, 1994 and IEMA's Notification Number 933266. On December 22, 1993 Clark Refining & Marketing, Inc. (Clark) notified IEMA of a release of gasoline from an "aboveground storage tank". The release occurred on Clark's property, in a dike surrounding the aboveground storage tank.

Clark has since received a package from the LUST Section of Illinois EPA, requesting the normally required LUST reports. Since this release occurred from an aboveground storage tank and not an underground storage tank, the forms received are not applicable. Please modify your records to reflect this change.

Clark is committed to full cooperation with Illinois EPA. If you have any questions, please contact me.

Sincerely yours,

CLARK REFINING & MARKETING, INC.

Ronald Snook

Environmental Manager

RDS/rs/epa

SCREENED

			·
. •			

### Illinois Emergency Management Agency

Incident Number 9 3 3 2 6 6

Notify: ILLINOIS EMERGENCY MANAGEMENT AGENCY 1 - 800 / 782 - 7860 or 217 / 782 - 7860

E								
П	See and district	All the factors	A	APPLE.	EF	-	4000.6	and the same
Н	H	ĦI	1 B	L.F	H.L	7 7	<u> </u>	ı,
S.	<b>₩</b> .₩	بينقة لسنق	السطاء	1.6	لة نساء.		11	<b>A</b> .

Dates	12	2/2	93	 
Times				
Receiv	red l	yr J	KK	 

	Caller: DOW GNOOR	14.	On Scene Contact:
	Call back phono#: 708/385-5000		On Scane Phone#:
) ) )	Caller represents: CLARK REFINING & MARKE	TIM(	GNo. injured: [] Haz-mar rejaced
<b>4.</b>	Type of incident: [] Fire [4] Leak or Spill CORP.		Where taken:
••	[ ] Explosion [ ] Water Involvement	16.	Public health risks and/or precautions taken,
	[] Gas or Vapor cloud [] Other		including # evacuated:
5.	Incident Location:		
w	Street 131 cm cmp & HOMEND	40-manufacture	NO .
	City BINE ISLAND [] In [] Near	-	'
	County COOK	17.	. Assistance needed from State Agencies:
	Milepost [] RR [] River [] Highway		
	SecRange		
б.		•	80
, espe	[] Weterway [] Air [] Other	6	·
7.	Material (s) Involved: INST. RATIED GASOLINE	18.	. Containment/cleams actions and plans;
F	**************************************		Table 1
<del></del>	[] Gas [] Liquid [] Semi-Solid [] Solid	North Contract	
	[] Pesticide [] Radioactive	* tentinire	gypppymannania (1900-1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) (1904) I
	CAS #:	<b>(</b>	f
	UN/NA#:	4	
	Is this a 302 (a) Extremely Hazardons Substance?	19:	: Weather: [] sunny [] overcast [] night
	[] Yes [] No [] Unknown		[]pdy. cldy. [] rain [] anow
	Is this a RCRA Hazardous Waste?		TempF wind dirspeedmph.
	[] Yes [] No [] Unknown		The second secon
	If Yes, is this a RCRA regulated facility?	24	0: Responsible Party: #3
	[] Yes [] No	we	· · · · · · · · · · · · · · · · · · ·
8.			Contact person: 41
0.	[] Aboveground tank [] Pipeline		Phone # 2
	k] Underground tank [] Other		
	Container size:	•	BLUE ISLAND, IL 6040
9.	Amount released: APPR. 50-75 GALS	, ,	
<b>∌</b> e	Rate of release: /min.	&code	
11	. Cause of release: LEAK IN LINE	N	Iodifications: 0959 FAXED IEPA/EFK
AU.	· Carrado de Lancasse Travas Tu Alfred	64	(Visite (1.1.1.2.1.2.1.1.1.1.1.1.1.1.1.1.1.1.1.1
4 1	. Estimated spill extent:	provide 1	timejumumiyyyyyyyyyttiiniidiidiitiiniiiniidiiyyyyyyyyyy
46	[] square feet [] square yards	95500	
8 <i>9</i> 3	. [] Occurred Date:/	4447	
£ 44	f) Discovered Date: 12/22 43 Time: 0930	engs	
6-45-5	E Discovered Dave 2/2/43 Lame 1/4/11		
13	. Emergency units contacted	•	On scane
46	[] Fire		
	[ ] Sheriff		[ ] Sheriff
	[ ] Police	argas	[] Police
	[ ] ESDA	9	[ ] ESDA
	Other NRC	9	Other

				-			44.
						×.	
			·				
						,	
	•						
٠							

8 17 3 14 25 22 7 5 655 751

### CLARK OIL & REFINING CORPORATION



31ST AND KEDZIE AVENUE POST OFFICE SCR 297

LUE ISLAND ILLINOIS SOADS-0297

CHICE (7081 J45-9000 AX (700) 385-0781

June 15, 1993

#### VIA FAX

17

Mr. Larry Eastep Division of Land Pollution Control Tilinois Environmental Protection Agency 1100 Churchill Road opringileld, IL 42,076

Re; 30 Day Storage Extension

Dear Mr. Eastep:

This letter is in response to my telephone conversation with Ms. Donna Grant, representing Illinois EPA. Ms. Grant has reviewed Clark's request, dated June 3, 1993, for a 30 day extension of the 20 day store rule and required further information. Please find below Ms. Grant's questions, followed by Clark's response:

Location of wastes on site.

The wastes are stored in 20 cubic yard, roll-orf style container (boxes). These boxes are lined and covered with plastic. The boxes are located in what Clark's derms the "Morthwest Properties", this area is west to Homan Avenue and just south of 127th street.

Generator's [EPA and USEPA numbers.

Clark Oil & Refining Corporation - Blue Toland Refinery Blue Island, Illinois. USEPA = TLD 005-109-322 IEPA = 0310240005

Care Storage Began.

storage began in the collawing latie:

.st storage com began on March 261 1993 ind storage combegan on March 25 - 1993 ara and ath storage box segan on Maron was

and the state of t

Mr. Larry Eastep Illinois Environmental Protection Agency June 15, 1993 Page Two

um viceuseeus is signification

Discussion or details on: why new waste stream and why the delay?

This material is usually disposed of through alternative fuel blenders, as an oily waste (KO49, FO37, and KO51). In Clark's commitment to hazardous waste reduction, we attempted to reduce the hazardous waste generated by performing a waste reduction procedure. Clark contracted with a company to centrifuge the oily sludge in order to recycle the oil, disposed of the water phase through Clark's wastewater treatment system, and then dispose of the solids in a landfill. Upon analyses of the solid material to be landfilled, the cyanide concentration exceeded the applicable limits.

Clark then attempted to contract with nazardous waste treatment companies to dispose of the solid materials and procure the applicable permits for treatment and disposal purposes. These procedures have taken longer than expected, for this reason Clark is requesting the 30 day extension.

Clark is committed to full cooperation with IEPA. If you have any further quesions, please do not hesitate to contact me.

Sincerely yours, CLARK OIL & REFINING CORPORATION

Stafford Jacques
Environmental Manager

copy to: B. Dahm J. Bernbom 

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

### 1. Name of coalition putting forth the proposal:

Citizens for a Better Environment (CBE), located in Chicago, Illinois, is putting forth this proposal based on the U.S. Environmental Protection Agency's request for SEP ideas for possible incorporation into settlement of a lawsuit between Clark Refining and Marketing (Clark) and the U.S. EPA.

#### 2. Wailing address:

407 S. Dearborn Suite 1775 Chicago, Illinois 60605

#### Contact:

Ms. Joanna Hoelscher Ms. Abigail Jarka Citizens for a Better Environment (312) 939-1530

### 4. Brief description of the coalition and its interests:

Since 1994, CBE has worked with the residents of Blue Island, Illinois that reside in relative close proximity to the Clark refinery, located at 13100 South Kedzie, Blue Island, Illinois, to address concerns about accidental releases to the environment of toxic chemicals. At that time, CBE worked with a Good Neighbor Committee to develop a Good Neighbor Agreement with Clark. CBE and representatives of the Good Neighbor Committee, at that time, had engaged in direct dialogue with company representatives about Clark's emissions and operations; however, Clark discontinued its involvement with Good Neighbor Committee due to managerial changes. Therefore, a Good Neighbor Agreement between the community and Clark was never established.

During 1997, the U.S. EPA National Enforcement Investigation Center (NEIC) conducted a multimedia compliance investigation of the Clark, Blue Island refinery. The results of the investigation indicated multiple environmental compliance issues, which are currently the subject of a lawsuit between the U.S. EPA and Clark. In light of the pending lawsuit, CBE hopes to have SEPs that will ultimately improve refinery operations incorporated into the final agreement between Clark and the U.S. EPA. The proposed SEP projects are being submitted solely by CBE and only represent those projects that CBE put forth as part of the former good neighbor negotiations with Clark.

# 5. What community or geographic area would most benefit from the proposed project?

Each proposed project would specifically benefit community residents living and working in proximity to the Clark refinery and to Blue Island residents generally. Additionally, given Clark's close proximity to Alsip, certain areas in that community would also benefit from the proposed SEPs. It should be noted that the proposed SEPs not only focus on improving the environment for the residents nearby the refinery, but also seek to improve the overall refinery operations and, in some cases, provide a return on investment.

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

### 6. Description of proposed projects:

CBE has identified five specific projects for possible inclusion in the lawsuit settlement as SEPs. Where possible, estimated costs associated with each project have been identified. The following list presents the proposed projects:

- a. Leak Detection and Repair program
- b. Real-time fenceline monitoring
- c. Pollution prevention audit
- d. Vapor recovery systems in high use loading/unloading areas
- e. Safety assessment

Note that this listing is not presented in order of priority.

#### 7. Nexus:

Each of the proposed projects address emissions, or the potential for emissions, from the Clark refinery to the local citizenry and the environment. Proposals (a), (b), (c), and (d) specifically address the reduction or elimination of emissions associated with certain refinery processes. Proposal (e) addresses human health and safety concerns of residents living in close proximity to the refinery.

# 8. Relationship with improving the quality of human health or the environment:

TRI data indicates that Clark is a significant source of emissions to the Blue Island area, in fact, Clark is in the top 20% of all TRI facilities reporting in 1996 for air releases of recognized developmental and reproductive toxicants. The proposals that focus on emissions monitoring and reduction will ultimately reduce pollutant loading to the nearby community thereby improving human health and environmental quality. Conducting and implementing recommendations from a safety assessment will also improve the inherent safety of the refinery and minimize the potential for catastrophic accidents that could affect the health and safety of the surrounding community.

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

PROPOSAL:

(a) Upgrade the leak detection and repair program.

OBJECTIVE:

Reduce fugitive VOC air emissions from the refinery.

BASIS:

Studies conducted by the U.S. EPA and industries indicate that approximately 90% of refinery emissions are airborne and 10% of those emissions are the result of equipment releases. 1 The same source identifies fugitive emissions from process equipment and tank vents to be a significant source of the total refinery emissions.

DESCRIPTION: Institute a leak detection and repair program for fugitive emissions from process equipment (valves, flanges, pump seals, etc.). At a minimum, an LDAR program would initially consist of monthly monitoring of refinery components at a 500 ppm leak detection level. Leaking components would be repaired immediately (within 15 days based on regulatory requirements) and re-monitored to confirm the effectiveness of the repair. Quarterly monitoring of equipment could be conducted when less than 1% of all components are found to be leaking at a 500 ppm detection level, or when overall refinery VOC emissions are reduced to less than 400 tons/year. Repetitively leaking valves and pumps (defined as leaking more than two times during a one-year period) would be replaced with advanced packing or bellows valves, and canned or dual mechanical sealed pumps.

> As part of the LDAR program, Clark would develop an inventory of chronic or highrepeat leaking equipment. The purpose of this inventory would be to develop a database of information regarding fugitive emissions thus allowing Clark to address operational concerns that are attributing to fugitive emissions from equipment. The basis for developing a chronic-leaker inventory is work completed by the National Petrochemical and Refiners Association (NPRA) that suggests chronic-leakers are not distributed randomly throughout a refinery.

COSTS:

Costs for implementation of this project have not been evaluated for the Clark facility. However, based on previous studies, a quarterly LDAR program at 500 ppm typically costs \$150,000 to \$200,000 annualized costs over 15 years. The expected pay-back period of this project is one year.

U.S. EPA. Amoco/U.S. EPA Pollution Prevention Project- Yorktown, Virginia. January 1992 <sup>2</sup> U.S. EPA. Amoco/U.S. EPA Pollution Prevention Project- Yorktown, Virginia. January 1992, Table3.4a.

# Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

PROPOSAL:

(b) Fenceline emission monitoring

**OBJECTIVE:** 

Monitor emissions from the refinery

BASIS:

Clark has had documented permit exceedances of air emissions, including sulfuric acid

and benzene, from refinery operations

DESCRIPTION: This project would consist of installing a continuous fenceline air emission monitoring system. The first step would be to conduct air dispersion modeling to evaluate local air movement with respect to meteorological conditions thus allowing Clark to evaluate the location and spacing of the monitors. The second step would be to install a continuous fenceline monitoring system that, at a minimum, would monitor benzene, toluene, ethylbenzene, and toluene (BTEX compounds) as well as SO2 and NOx. It is anticipated that the continuous monitor would be installed along facility boundaries adjacent to residential areas that are most likely to receive the greatest contaminant loads based on the modeling.

> As part of this program, Clark would contract with a third-party contractor to conduct the emission monitoring and maintain the equipment in order to maintain consistency and continued operation of the system. Monthly reports would be provided to the City Council and Good Neighbor Committee.

COSTS:

Typical costs for this equipment to monitor four compounds and installation range from \$75,000 to \$125,000. Monthly costs for data processing and reporting of four

compounds typically range from \$7,000 to \$20,000 per month.

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

PROPOSAL:

(c) Comprehensive Pollution Prevention Assessment

OBJECTIVE:

Reduce use, storage, and waste disposal of toxic materials at the refinery

BASIS:

Clark uses highly toxic materials at its refinery (such as hydrogen fluoride) and is a significant generator of air pollution and hazardous waste in Blue Island. The facility is a considered a major source for air emissions under Clean Air Act requirements and a large quantity generator of hazardous waste under RCRA. A reduction in use and, therefore, disposal of hazardous materials would improve the inherent safety of the plant (use of safer materials) and reduce toxic emissions to nearby residents. Additionally, pollution prevention measures will eventually pay for themselves within a specified pay back

period ultimately reducing operation costs to the facility.

DESCRIPTION: This project would entail Clark engaging the services of a consultant, acceptable to the City Council and the Good Neighbor Committee, to perform a comprehensive, facilitywide Pollution Prevention assessment to identify measures which can be implemented to reduce emissions and waste generation at the refinery. Specific issues that should be included in the report are:

- refinery catalyst recycling and reuse alternatives
- process improvements that result in the reduction of ongoing particulate and SO, emissions from the FCC unit
- sulfur acid emission reduction associated with sulfur recovery plant It is expected that Clark would work collaboratively with the City Council and the Good Neighbor committee in reviewing the results of the assessment and implementing its recommendations. Clark would provide the City Council and Good Neighbor Committee periodic updates outlining pollution prevention initiatives undertaken at the refinery. As part of this project, Clark would implement a program of continuing pollution prevention research and capital planning/investment so that alternative not currently feasible could be implemented in the future.

COSTS:

Costs for implementation of this project have not been evaluated.

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

PROPOSAL:

(d) Vapor Recovery System in High Use Loading/Unloading Areas

**QBJECTIVE:** 

Reduce VOC air emissions and release of free-product to the ground surface

BASIS:

Previous studies indicate that fugitive VOC air emissions from loading/unloading areas account for up to 10% of refinery air emissions. Emissions typically contain benzene, a known human carcinogen.

DESCRIPTION: This project consists of installing vapor recovery systems in high use loading/unloading areas to collected and condense vapors from petroleum products for reuse. Measures to reduce spillage in loading/unloading area that should be considered, and if feasible installed, include:

Paving and diking of product transfer areas to limit spills to surface soil, groundwater, and surface water

Fail-safe design features (warning lights or barriers) to prevent vehicle departure until transfer lines are completely disconnected

Design of containment areas to facilitate reuse of spilled petroleum products.

COSTS:

Costs for implementation of this project have not been evaluated. However, documented cost savings associated with recovery of usable product and reduced waste disposal costs were approximately \$12,000.3

<sup>&</sup>lt;sup>3</sup> Epstein, Lois N. A Review of Pollution Prevention Strategies for Petroleum Refineries. 1994 NPRA Environmental Conference. Houston, Texas.

### Clark Refinery and Marketing, Inc. 13001 South Kedzie Blue Island, Illinois

PROPOSAL:

(e) Safety Assessment

OBJECTIVE:

Continued evaluation of Clark's safety management program.

BASIS:

Occurrence of multiple refinery accidents.

DESCRIPTION: Clark will contract with an independent safety specialist to conduct annual safety audits of the refinery for at least five years. These audits would include an evaluation of the company's overall safety management program as well as an assessment any new technologies available to improve the inherent safety of the facility. Clark would work with the City Council and Good Neighbor Committee on choosing the independent contractor, or contractors, assessing of the audit results on a yearly basis, and

implementing the audit recommendations on a yearly basis.

COSTS:

Costs for implementation of this project have not been evaluated.

	·	
	•	
·		
		•
		·

Clark O'U #0310240005 Compliance File

BEFORE THE POLLUTION CONTROL BOARD OF THE STATE OF ILLINOIS

CLARK OIL & REFINING CORPORATION)

Petitioner,

PCB #

(Provisional Variance)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

NOTICE

TO:

Dorothy Gunn, Clerk Illinois Pollution Control Board Clark Oil & Refining Corp. Suite 11-500 100 West Randolph St. Chicago, Illinois 60601

Stafford Jacques Blue Island Refinery P.O. box 227 131 St. & Kedzie Avenue Blue Island, Illinois 60406

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the PROVISIONAL VARIANCE of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

ENVIRONMENTAL PROTECTION AGENCY OF THE STATE OF ILLINOIS

51

Scott O. Phillips Deputy Counsel Division of Legal Counsel

Date: June 28, 1993 Agency File #: 334-93

2200 Churchill Road Post Office Box 19276 Springfield, Illinois 62794-9276 (217)782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

### BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLARK OIL AND REFINING CORPORATION.

Petitioner,

PCB -

HILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

PROVISIONAL VARIANCE

### AGENCY RECOMMENDATION

The Illinois Environmental Protection Agency recommends that because of an Arbitrary and unreasonable hardship the Petitioner be granted a provisional ariance for 30 days pursuant to 35 Ill. Adm. Code 722.134(b) and Section 37 of the Environmental Protection Act. ACTION MUST BE TAKEN WITHIN 2 DAYS OF HOTIFICATION OF THIS RECOMMENDATION FROM THE AGENCY.

- 1. On June 15, 1993, the Agency received the attached letter from Petitioner. Petitioner requests an extension of time pursuant to 35 III. Adm. Code 722.134(b) for its facility in Cook County.
- The Agency has concluded that the hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary and uncontrollable circumstances and that compliance with the accumulation time requirements of 35 III. Adm. Code 722.134 would impose, under these circumstances, an arbitrary or unreasonable hardship. The grant of this provisional variance appears consistent with 40 CFR 262.34(b) (1991), adopted pursuant to the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), which authorizes the Regional Administrator for the United States Environmental Protection agency to grant similar extensions for up to 30 days when hazardous wastes must remain on-site for longer than 30 days due to unforeseen, temporary, and uncontrollable circumstances.

Illinois Environmental Protection Agency

Зу:

Scott O. Phillips Deputy Counsel

Pate: 28 June 1791

Division of Legal Counsel 2200 Churchill Road Post Office Box 19276 Springfield, Illinois 52794-9276

DG:jar/1097v,103-194

STATE OF ILLINOIS COUNTY OF SANGAMON

SS

### PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached PROVISIONAL VARIANCE upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy Gunn, Clerk Illinois Pollution Control Board Clark Oil & Refining Corp. Suite 11-500 100 West Randolph St. Chicago, Illinois 60601 (MESSENGER MAIL)

Stafford Jacques Blue Island Refinery P.O. box 287 131 St. & Kedzie Avenue Blue Island, Illinois 60406 (CERTIFIED MAIL)

and mailing it from Springfield, Illinois on June 28, 1993, with sufficient postage affixed, as indicated above.

SUBSCRIBED AND SWORN TO BEFORE MF this 28th day of June, 1993.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

وإصوافه والمعارضة ومواصوا وماره والمدار والمدار والمواد والمعارض والمعارض والمعارض والمعارض والمعارض والمعارض OFFICIAL AL BARBARA K. McGEE NOTARY PUBLIC STATE OF ILLINOIS MY COMMISSION EXPIRES 4-13-95 

Treat

# ILLINOIS POLLUTION CONTROL BOARD July 1, 1993

CLARK OIL AND REFINING CORPORTION,

petitioner,

٧.

PCB 93-125 (Provisional Variance)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

ORDER OF THE BOARD (by C. A. Manning):

This matter comes before the Board on receipt of an Agency Recommendation dated June 30, 1993. The recommendation refers to a request from petitioner, Clark Oil and Refining Corporation for a 30-day provisional variance for its Cook County facility from the 90-day limitation on the storage of hazardous wastes, as set forth in 35 Ill. Adm. Code 722.134(b), for the period from June 24, 1993 to July 24, 1993.

Upon receipt of the request, the Agency issued its recommendation, finding that due to unforeseen, temporary and uncontrollable circumstances, failure to grant the requested 30-day provisional variance would impose an arbitrary or unreasonable hardship on Petitioner.

The responsibilities of the Agency and the Board in these short-term provisional variances are different from the responsibilities in standard variances. See 415 ILCS 5/35(b) & (c) (1992) (Ill. Rev. Stat. 1991, ch. 111½, pars. 1035(b) & (c)). In provisional variances it is the responsibility of the Agency to make the technical determinations and finding of arbitrary or unreasonable hardship. The Board's responsibility is to adopt a formal Order, to assure the formal maintenance of the record, to assure the enforceability of the variance, and to provide notification of the action by a press release.

Having received the Agency recommendation finding that a denial of the requested relief would impose an arbitrary or unreasonable hardship, the Board hereby grants Petitioner a provisional variance from 35 Ill. Adm. Code 722.134(b) from June 24, 1993 to July 24, 1993.

IT IS SO ORDERED.

					•
a					
		·			
			•		
•					
		•			
	4				
					•
					-
				and the second second	